
STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION



REQUEST FOR PROPOSALS

Peoples Gas Management Audit

ICC07GAS0001

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REQUEST FOR PROPOSALS

- ☐ Request for Proposals (RFP)
- ☒ Request for Proposals for Professional & Artistic Services (RFP P&A)

1. INTRODUCTION

- 1.1 PURPOSE:** The Illinois Commerce Commission is requesting offers from responsible vendors to meet the State's needs. A brief description is set forth below for your convenience, with detailed requirements found in Section 4 of the RFP, "Services Required from the Vendor." If you are interested and able to meet these requirements, we would appreciate and welcome an offer.

Upon completion of the RFP process, if you are the selected vendor, you will be expected to enter into a binding contract with the Agency/Buyer. The Contract for Services (the Contract) will follow the format and include the contractual terms as specified in the attached sample Contract for Services.

- 1.2 BACKGROUND:** The State of Illinois Department of Central Management Services (CMS) serves as the central procurement authority for the State of Illinois (the State). Agencies under the Governor utilize the procurement authority of CMS as Chief Procurement Officer to contract for supplies and services necessary for the operations of State government. A Chief Procurement Officer may, in turn, appoint a State Purchasing Officer (SPO) who has independent authority to contract for supplies and services necessary for the operations of State government. The Agency/Buyer or CMS is ultimately responsible for entering into the contract, monitoring performance, receiving the benefits derived under the contract, and making payments under the contract.

Please read the RFP and Contract form and submit your Offer in accordance with Section 5 of the RFP, "Instructions for Preparing and Submitting Offers."

If you have any questions, please contact the RFP Contact identified in Section 3 of the RFP, "Key Information about this RFP."

- 1.3 SUMMARY OF SERVICES REQUIRED:**

Brief Description: The Agency requires a Vendor to conduct a focused management audit of Peoples Gas and North Shore Gas to examine their gas purchasing practices, gas storage operations, and gas storage activities; as well as the effect of their affiliated operations on those practices, operations and activities.

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2. DEFINITIONS

Whenever used in this RFP, Contract, or amendment, including schedules and exhibits to this RFP or Contract, the following terms will have the meanings defined below.

Any objections or questions regarding the definitions should be raised with the Agency/Buyer during the RFP process.

- 2.1 Acceptance:** the point in time when the product or equipment has been fully installed and operates in compliance with the Agency/Buyer's order and the Contract, or the State otherwise indicates acceptance in writing.
- 2.2 Affiliates:** any person, firm, corporation (including, without limitation, service corporation and professional corporation), partnership (including, without limitation, general partnership, limited partnership and limited liability partnership), limited liability company, joint venture, business trust, association or other entity that now or in the future directly or indirectly controls, is controlled by, or is under common control with Vendor.
- 2.3 Agency/Buyer:** the agency, board, department or commission of State government responsible for entering into the Contract, monitoring performance, receiving the benefits derived from the Contract and making payments under the Contract.
- 2.4 Change of Control:** any transaction or combination of transactions as a result of which (a) ownership of a vendor changes, (b) the sale or transfer of fifty percent (50%) or more of the beneficial ownership occurs or, (c) the divestiture, in whole or in part, of the business unit or division of a party that is obligated to produce the products and services occurs.
- 2.5 CMS:** the State of Illinois Department of Central Management Services and any successor organizations.
- 2.6 Code:** the Illinois Procurement Code, 30 ILCS 500/1-5 et seq. Unofficial versions of the Code and Standard Procurement Rules (44 Ill. Adm. Code 1), which are applicable to this procurement, may be viewed at <http://www.purchase.state.il.us/>.
- 2.7 Contract:** the "Contract for Services" included with the State's Request for Proposals.
- 2.8 Confidential Information:** any material, data, or information disclosed by either Party to the other that, pursuant to agreement of the parties or the State's grant of a proper request for confidentiality, is not generally known by or disclosed to the public or to Third Parties including, without limitation: (a) all materials, know-how, processes, trade secrets, manuals, confidential reports, services rendered by State, financial, technical and operational information, and other matters relating to the operation of a Party's business; (b) all information and materials relating to Third Party vendors of State that have provided any part of State's information or communications infrastructure to State; (c) software; and (d) any other information that the Parties agree should be kept confidential. See also subsection 7.2.7 of Section 7 of this RFP, "Public Records and Requests for Confidential Treatment."
- 2.9 Filing:** where applicable, an instrument or document submitted to a regulatory body for review and approval to allow the Vendor(s) to make the Services contained therein available for consumption.
- 2.10 ILCS:** Illinois Compiled Statutes. An unofficial version of the ILCS can be viewed at <http://www.ilga.gov/legislation/ilcs/ilcs.asp>.
- 2.11 Offer:** the Offer consists of the Technical Proposal, Price Proposal, and all required forms and certifications—completed, signed, and returned by the Vendor.

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- 2.12 Offer Firm Time:** offers shall remain firm and unaltered after opening for the number of days shown. An Offer may be accepted, subject to successful contract negotiations, at any time during the Offer Firm Time.
- 2.13 Order:** any written request from CMS or an Agency/Buyer for services and/or products and/or equipment pursuant to this Contract.
- 2.14 Parties:** the State of Illinois and the Vendor.
- 2.15 Performance Guarantee:** the Vendor's commitment to place some or all of its fee at risk contingent upon the Agency/Buyer's satisfaction with the work to be performed.
- 2.16 Professional & Artistic Services:** those services provided under contract to a State Agency by a person or business, acting as an independent contractor, qualified by education, experience and technical ability including, without limitation, installation, implementation, integration, custom programming, conversion, training, consulting and any other similar services that may be provided by Vendor(s) independently or in conjunction with a Third Party hereunder.
- 2.17 RFP/RFP P&A:** the State's Request for Proposals (Professional & Artistic Services, if applicable).
- 2.18 Responses:** when used in association with the term "RFP" refer to the Vendor's(s') replies, clarifications, revisions, and additions to the State's Request for Proposals.
- 2.19 Security:** the Vendor may be required to provide offer security (e.g., bond, cashier's check, money order or irrevocable letter of credit) with the Offer and performance security within ten (10) days of acceptance of the Offer unless a different time is specified herein. Security shall be in the form of a bond unless otherwise agreed. In the event a bond is used, a surety licensed to do business in Illinois must issue the bond on a form acceptable to the Agency/Buyer. The security shall be forfeited if the selected Vendor withdraws its Offer before the expiration of the Offer Firm Time or after the Agency/Buyer issues a Notice of Intent to Award, does not honor the terms in its Offer, or does not negotiate contract terms in good faith. Security submitted by Vendors will be returned when the Offers expire, are rejected, or the Agency/Buyer enters into a contract with the successful Vendor, whichever is earliest.
- 2.20 State:** the State of Illinois, as represented through any agency, department, board, or commission.
- 2.21 State Facility:** any facility, site or location owned, managed, controlled or operated by the State.
- 2.22 State Liaison:** when applicable, the CMS employee who shall act as a centralized liaison between Vendor(s) and Agency/Buyer with respect to all matters relating to the administration of this Contract.
- 2.23 Third Party:** any entity other than the Agency/Buyer, Vendor(s), or any of their respective Affiliates.

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3. KEY INFORMATION ABOUT THIS RFP

3.1 REFERENCE NUMBER: ICC07GAS0001

3.2 RFP CONTACT: The RFP Contact, identified below, is the sole point of contact regarding the RFP from the date of issuance until selection of the successful Vendor.

RFP Contact: Robert Bishop	Phone: 217-557-7969
Illinois Commerce Commission	Fax: 217-785-5231
527 E. Capitol Avenue	TDD: 217-782-7434
Springfield, IL 62701	E-mail: bbishop@icc.illinois.gov

3.3 QUESTIONS: Please direct all questions (and requests for American Disabilities Act accommodations) to the RFP Contact. Do not discuss this RFP with any person other than the RFP Contact. Questions received less than seven calendar days prior to the due date and time may be answered at the discretion of the Agency/Buyer. A listing of all questions asked and answered in reference to this RFP will be posted to <http://www.icc.illinois.gov/>. When the answer to a question regarding the RFP may result in a material change to the RFP, we will post an addendum which may be viewed at <http://www.purchase.state.il.us/>. Only written answers to questions will be binding on the State.

3.4 SUBMISSION DEADLINE AND PROCUREMENT TIMETABLE: The following dates are set forth for informational and planning purposes; however, the Agency/Buyer reserves the right to change the dates.

Issue RFP	September 12, 2006
Vendor Conference	September 28, 2006
Due Date and Time for Offers	October 19, 2006, noon CDT
Opening Date and Time	October 19, 2006, 1:00 p.m.
Anticipated Announcement of Successful Vendor	November 30, 2006

3.5 VENDOR CONFERENCE: A telephonic Vendor Conference will be held on September 28, 2006, at 11:00 a.m. To obtain the telephone call-in number and passcode, please e-mail or call Jane Fields at jfields@icc.illinois.gov or (217) 782-2146. When requesting the call-in information, please provide your name, e-mail address, firm name, address, and telephone number. Participation in the telephonic Vendor Conference is optional. The Agenda for the telephonic Vendor Conference will be posted on the Commission's web site at <http://www.icc.illinois.gov> on September 26, 2006. Notes from the Vendor Conference will be posted on the Commission's web site at <http://www.icc.illinois.gov>.

3.6 NUMBER OF COPIES: Submit a signed original and five (5) copies of the Offer in a sealed envelope or container. (Pricing must be sealed separately from the technical portion of your proposal.)

You must also submit a copy of the technical portion of your proposal on CD/diskette in Microsoft Word. The pricing information should not be included on CD/diskette.

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3.7 SUBMIT OFFERS TO: LABEL ENVELOPES/CONTAINERS

Illinois Commerce Commission Attn: Robert Bishop 527 East Capitol Avenue Springfield, IL 62701	Illinois Commerce Commission 527 East Capitol Avenue, Springfield, IL 62701 Peoples Gas Management Audit RFP ICC07GAS0001
	Due Date: October 19, 2006 at 12:00 Noon CDT <i>[Vendor's Name and Address]</i>

3.8 OPENING: The State will open all offers that are submitted in a proper and timely manner, and will record the names and other information specified by law and rule. All offers become the property of the State and will not be returned except in the case of a late submission. Offers will be opened at the Submission Location.

3.9 BID BONDS OR OTHER SECURITY:

Offer: None Performance: None

3.10 OFFER FIRM TIME:

120 Days from Opening

3.11 PROTEST REVIEW OFFICE:

Illinois Commerce Commission	Phone: 312-814-3363
Attn: Kenneth E. Hundrieser	Fax: 312-814-1818
160 N. LaSalle Street, Suite C-800	TDD: 312-814-5845

3.12 SMALL BUSINESS SET-ASIDE: ☐ Yes ☒ No. If "Yes" is marked this has been set-aside for award to small businesses in Illinois (30 ILCS 500/45-45). A small business (including affiliates) has annual sales for its most recently completed fiscal year less than (1) \$10,000,000 for a wholesaler; (2) \$6,000,000 for a retailer or business selling services; (3) \$10,000,000 for a construction business; and (4) must have less than 250 employees if a manufacturer. For complete requirements, contact the CMS Small Business Specialist at 866-ILL-BUYS, TDD 800-526-0844.

4. SERVICES REQUIRED FROM THE VENDOR

The Agency/Buyer will detail the specific requirements and needs which the Contract is to address. This section will include the Agency/Buyer's needs, goals and requirements as well as any other specifications. This information should be used by the Vendor to prepare its Offer and will also constitute the terms of the Contract.

4.1. Need for Services

The Agency requires a Vendor to conduct a focused management audit under the provisions of Section 8-102 of the Public Utilities Act ("PUA") [220 ILCS 5/8-102]. As ordered by the Illinois Commerce Commission in its August 16, 2006, Order issued in Docket No. 06-0556, a Vendor shall conduct a joint management audit of both The Peoples Gas Light and Coke Company ("Peoples Gas") and North Shore Gas Company ("North Shore") (jointly, "the Utilities") to examine the Utilities' gas purchasing practices, gas storage operations, and gas storage activities. The management audit shall also examine the effect of the Utilities' affiliated operations on such gas purchasing practices, gas storage operations, and gas storage activities. All references to the term affiliate in this document refer to the definition in Section 7-101 of the PUA [220 ILCS 5/7-101]. The ultimate objectives of the management audit will be the identification of any improper practices and procedures at the Utilities, recommendations for the elimination of these practices and procedures, recommendations for management controls to be instituted to prevent the recurrence of these practices and procedures, and the quantification of any monetary impact of these practices and procedures during the period from October 1, 2004, through September 30, 2006. The management audit will conclude with the Vendor's submission of the final management audit report (public version and confidential version) to the Agency. If and as requested by the Commission, the Vendor shall make a formal presentation of the final management audit report to the Commission at an open meeting.

4.2. Goals and Objectives

4.2.1 The goal of this management audit is a comprehensive review and evaluation of the Utilities' gas supply procurement practices and related activities. In the recently concluded purchase gas adjustment proceedings for Peoples Gas (Docket No. 01-0707) and North Shore (Docket No. 01-0706), issues were raised concerning the Utilities' gas supply and procurement practices. The Commission determined in its Order in Docket No. 01-0707 dated March 28, 2006, that Peoples Gas had conducted transactions that improperly raised gas costs to ratepayers. (The Commission made similar determination for North Shore in the Order for Docket No. 01-0706 dated March 28, 2006.) The activities that occurred during the Utilities' fiscal year 2001 underlie the Commission's concerns here. Therefore, Vendor must read and become familiar with the Orders in Docket Nos. 01-0707 and 01-0706.

4.2.2 Vendor shall comprehensively review and evaluate the Utilities' gas supply procurement practices and related activities, including the Utilities' current and past practices and procedures, the Utilities' internal controls (as a stand alone entity and in association with affiliates and third parties), and the Utilities' activities for their fiscal years 1999 through 2006 (the period from October 1, 1998, through September 30, 2006). The Vendor's

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recommendations will include prospective measures that, when implemented, would protect ratepayers' interests when the Utilities make future gas purchasing, transportation, and storage decisions. The Vendor shall not quantify the monetary impacts of its findings on ratepayers for the period October 1, 1998, through September 30, 2004; the Vendor shall quantify the monetary impacts of its findings on ratepayers, if any, for the period October 1, 2004, through September 30, 2006.

- 4.2.3 Vendor shall examine the following areas: Planning, Purchases and Sales, Price Mitigation, Storage and Hub Operations and Activities, and Transactions and Activities with Affiliates. In the objectives identified below, some recommendations are specifically requested from the Vendor. For each of the objectives, if the Vendor has recommendations, the Vendor shall provide those recommendations even if there is not a specific request for recommendations.

4.2.3.1 Planning:

- 4.2.3.1.1 Determine whether or not the manner in which the Utilities forecast their peak day and annual demand is reasonable. Make recommendations to improve forecasting.
- 4.2.3.1.2 Determine whether or not the Utilities acquire assets to meet ratepayers' gas supply needs in a manner that ensures supply adequacy and reliability without oversupply at the least possible cost. Make recommendations to improve the process.
- 4.2.3.1.3 Determine if the structure of the gas supply portfolio used by the Utilities to meet their forecasted peak day and annual demand is reasonable. Make recommendations to improve the structure.
- 4.2.3.1.4 Determine how the Utilities consider reliability, flexibility, supplier diversity, and price when determining its gas supply portfolio mixture. Compare use of city gate contracts versus supply obtained from retaining field zone and pipeline transportation to city gate.
- 4.2.3.1.5 Determine whether or not the Utilities' winter demand portfolio planning allows sufficient flexibility to provide supply during a warmer than normal month without risking significant oversupply. If not, recommend changes required in the Utilities' planning process that would improve portfolio flexibility.
- 4.2.3.1.6 Determine if the Utilities have sufficient internal controls in place to ensure that the Utilities follow their operational supply plans while keeping the Utilities from using ratepayer storage and supply assets for non-ratepayer benefit.

4.2.3.2 Purchases and Sales:

- 4.2.3.2.1 Determine what internal controls the Utilities have in place to ensure that ratepayers receive the best price on both

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purchases and sales. Make recommendations where appropriate.

4.2.3.2.2 Determine whether or not there are internal or external controls to prevent the Utilities' purchases and sales from benefiting affiliates at ratepayers' expense. Make recommendations where appropriate.

4.2.3.2.3 Determine the reasonableness of the Utilities' process for deciding whether or not to make or not make off-system sales. Make recommendations where appropriate.

4.2.3.2.4 Determine the reasonableness of the Utilities' process for deciding whether or not to release capacity for both transportation and storage. Make recommendations where appropriate.

4.2.3.2.5 Determine how the Utilities ensure that they receive the maximum credits from their leased assets. In particular, determine the reasonableness of the Utilities' process to choose between self-managing the assets, releasing them to a third party or allowing a third party to manage them. Make recommendations where appropriate.

4.2.3.3 Price mitigation:

4.2.3.3.1 Analyze the process used by the Utilities to develop their price mitigation strategies. Make recommendations where appropriate.

4.2.3.3.2 Analyze how the price mitigation strategies are implemented. Make recommendations where appropriate.

4.2.3.4 Storage and Hub Operations and Activities:

4.2.3.4.1 Analyze the process Peoples Gas uses to schedule Hub transactions in conjunction with injections and withdrawals from Manlove Field for ratepayers. Make recommendations where appropriate.

4.2.3.4.2 Determine whether or not Peoples Gas' Hub procedures ensure that its ratepayers and North Shore's ratepayers have priority access to Manlove Field.

4.2.3.4.3 Determine whether or not Peoples Gas' internal and external controls are adequate to ensure that its leased storage capacity is not used to benefit Hub customers and its affiliates. Make recommendations where appropriate.

4.2.3.4.4 Determine whether or not Peoples Gas has in place sufficient controls to ensure customer rights are protected for injection and withdrawals from the Manlove and leased storage assets. Analyze Peoples Gas' FERC tariff language to determine if it limits transportation customer or Hub customer injections late in winter season that could supplant the planned injections by Peoples Gas for ratepayers.

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- 4.2.3.4.5 Analyze and determine whether or not Hub activities provide sufficient net benefits or revenues to ratepayers to justify continuing to offer the services.
- 4.2.3.5 Transactions and Activities with Affiliates: To the extent not specified above, the objectives described above shall be considered in light of the following general objectives concerning affiliate and utility activity:
 - 4.2.3.5.1 Determine what internal and external controls the Utilities have in place to ensure that the Utilities' plans and actions are independent of its affiliates.
 - 4.2.3.5.2 Determine whether or not these controls are adequate to prevent regulated storage and gas supply assets, funded by the Utilities' ratepayers, from being used by the Utilities' affiliates, including the parent company, to increase non-regulated earnings at the expense of the Utilities' ratepayers.
 - 4.2.3.5.3 Determine whether or not the Utilities' gas supply and purchasing functions are separate and independent from the gas supply and purchasing functions of the Utilities' affiliates. If not, make appropriate recommendations about the controls that the Utilities should have in place to ensure independence of the Utilities' operations.
 - 4.2.3.5.4 Determine whether or not the Utilities have sufficient controls in place to ensure any assets or personnel shared between its regulated and unregulated operations, or among the Utilities and their affiliates, are properly allocated. If not, make appropriate recommendations.
- 4.2.4 Vendor should feel free to suggest objectives in addition to those listed in Section 4.2.3 that may be necessary to achieve the Goal in Section 4.2.1 and to complete the review and evaluation described in Section 4.2.2.

4.3. Services Required

4.3.1 Specifications—General:

- 4.3.1.1 Agency Project Manager shall be Mr. Bill Voss, in the Agency's Springfield, Illinois office, or other person so designated by the Agency. Use of the term "Staff" within this Notice of Procurement Opportunity refers to Agency Project Manager and other Agency personnel who shall have a direct interest in this project. Where any dispute should arise concerning this project, Agency Project Manager shall make a final determination over any such disputed matters.
- 4.3.1.2 Vendors responding to this Request for Proposal shall:
 - 4.3.1.2.1 Provide a preliminary work plan with their proposal covering all aspects of the project. The work plan must provide for active participation and coordination with Staff.

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The work plan shall include the necessary steps to meet the goals and objectives of the Agency specified in section 4.2 and the Agency Scope defined by this RFP. Vendors shall include, in their work plan response, an estimate of the hours required for each functional area and work step for each Vendor position (e.g. manager, consultant, analyst, etc. – including anyone identified in section 4.6). The focus of this and future work-plans is to function as a project management tool to assure Staff that Vendor has an adequate understanding of the requirements of the contract and can allocate resources reasonably to meet the requirements of the contract as well as provide Staff with appropriate regular performance benchmarks.

- 4.3.1.2.2 List and discuss all potential or real direct and indirect conflicts of interest via associations, engagement, or interests, either past or present, with Peoples Gas or North Shore, with any of the Utilities' subsidiaries or affiliates, or with any of the Parties to Docket No 01-0707 and Docket No. 01-0706—the Citizens Utility Board, the Illinois Attorney General, the Cook County State's Attorney, and the City of Chicago.
- 4.3.1.3 Vendor shall attend Agency briefing sessions and agenda meetings as deemed necessary by Agency Project Manager.
- 4.3.1.4 Vendor shall be an independent contractor for all purposes, except that Vendor and all persons who perform work under this Contract will function as an extension of the Agency Staff for purposes of Sections 5-108 and 10-107 of the PUA [220 ILCS 5/5-108 and 10-107]. Services performed pursuant to this Contract are not rendered as an employee of the Agency or of the State of Illinois. Amounts paid pursuant to this Contract do not constitute compensation paid to an employee. Vendor shall affirm in its response to this RFP that Vendor has reviewed the above-mentioned sections of the Public Utilities Act at: <http://www.icc.illinois.gov/rl/>.
- 4.3.1.5 Vendor shall acquire or maintain, at its expense, insurance that is appropriate in type and amount to cover its activities, including public liability, casualty, and auto insurance in sufficient amount to protect the State from liability for acts of Vendor and risks and indemnities assumed by Vendor. Vendor shall carry Comprehensive Auto Liability coverage with the following minimums: for bodily injury of \$250,000 per person/\$1,000,000 per occurrence, and for property damage, \$100,000 per occurrence. Vendor shall carry Worker's Compensation Insurance in amount required by law and shall carry Employer's Liability insurance in an amount of not less than \$500,000 per occurrence. The Vendor shall carry Comprehensive General Liability insurances of not less than \$2,000,000 per occurrence; such insurance shall include Contractor's Protective Liability covering liability for work sublet and Contractual Liability insuring the indemnity provisions contained in this Contract. The Vendor shall carry Professional Liability Insurance with limits of not less than \$2,000,000 per

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occurrence. Upon request, Vendor shall provide and maintain any bond required by law or the Agency/Buyer. Vendor shall provide copies of certificates of insurance evidencing the coverage described in this paragraph. Vendor shall certify in its proposal that it has or will obtain the above listed insurance coverage in the amounts specified if it is awarded the Contract for this project and that it will name the Utilities as an additional insured on Comprehensive General Liability and the Comprehensive Automobile Liability policies and shall provide Utilities a Waiver of Subrogation under the Worker's Compensation Insurance and Employer's Liability insurance.

- 4.3.1.6 Upon completion of this engagement, Vendor shall maintain the work papers it has prepared in the course of performing its obligations under the Contract for a period of no less than three years from the date of final payment under the Contract, or until all litigation, if any, related to this project is completed, whichever event occurs later. Vendor shall make such work papers available to the Commission and its Staff as requested or directed by the Commission, its Executive Director, or his designee. This obligation shall survive termination of the Contract.
- 4.3.1.7 As a result of information discerned within the duties described in Section 4.3.2, and for a period of three years after completion of this Contract, Vendor shall provide a witness or witnesses who can explain and support the findings and recommendations in written testimony and under cross-examination in a formal Agency proceeding, and who can provide expert assistance to the Agency, its Staff, and/or Agency counsel, in all matters relating to such a proceeding, including discovery and the preparation of pleadings, briefs and other legal documents.
 - 4.3.1.7.1 If such testimony is required, Agency and Vendor agree to enter into good faith negotiations for a separate agreement for the services described in this subparagraph.
 - 4.3.1.7.2 The hourly fees charged by Vendor under such agreement shall be at the then current hourly rates, provided that such rates shall be no greater than the fees charged for the same individual under this Contract plus a reasonable adjustment for inflation.
 - 4.3.1.7.3 Vendor will sign, on the advice of Agency counsel, and honor protective orders in the formal Agency proceeding.
- 4.3.1.8 Changes to the Vendor's staff (or others who would perform work under this Contract) must be pre-approved by the Agency Project Manager. Vendor must provide the Agency Project Manager with the necessary revisions to Vendor's Staffing Specifications supplied pursuant to 4.6.

4.3.2 Specifications-Identification of work steps to be performed. Vendor shall:

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- 4.3.2.1 At the beginning of the engagement (i.e. within fifteen business days of contract execution), develop and submit a detailed work plan to Staff for approval. Throughout the engagement Vendor shall revise the work plan and submit to Agency Project Manager for approval as required by Agency Project Manager. The work plan must provide for active participation and coordination with the Staff. The work plan shall include steps to meet the goals and objectives of the Agency specified in section 4.2 and the Agency Scope defined by this RFP. Vendor shall include in its work plan response an estimate of the hours required for each work step for each Vendor position (e.g. manager, consultant, analyst, etc.). The focus of the work-plan is to function as a project management tool to assure Staff that Vendor has an adequate understanding of the requirements of the contract and can allocate resources reasonably to meet the requirements of the contract as well as provide Staff with appropriate regular performance benchmarks.
- 4.3.2.2 Provide the Agency Project Manager with reports as shown in paragraph 4.5.
- 4.3.2.3 Conduct interviews, data reviews, and analyses, etc. to fully address the requirements of this RFP and report to Agency Project Manager.

4.4. Milestones and Deliverables

Timeline of Tentative Milestones:

Vendor begins assignment on date of contract execution.	Contract execution
Weekly status reports.	1st business day of each week.
Vendor Revised preliminary work plan. Define Deliverables dates to meet goals and objectives of contract.	Within 15 business days (of date of contract execution)
Monthly written status reports.	5th business day of each month after the period covered by the report.
Vendor duties per 4.2, 4.3, 4.4, and 4.5. Deliverables: written & oral analyses, and recommendations.	Throughout the engagement
Vendor submits draft management audit report to Agency and the Utilities for review.	December 7, 2007
Vendor submits final management audit report (public version and confidential version, if needed) to Agency.	January 16, 2008
Agency Staff submits final management audit report (public version and confidential version, if needed) to Commission.	February 15, 2008

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If and as requested by the Commission, the Vendor and Agency Staff will make a formal presentation of the final management audit report to the Commission at an open meeting	TBD
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4.5. Reporting, Status and Monitoring Specifications

- 4.5.1 Vendor shall meet with Agency Project Manager (on a day determined by Agency Project Manager) on a weekly basis (in person, by phone, or in a written narrative by e-mail, as required by Agency Project Manager) to review current activities and plan future actions. Any discrepancies between actual progress and contract requirements shall be explained.
- 4.5.2 Vendor shall submit weekly and monthly written reports.
 - 4.5.2.1 Vendor shall submit a weekly written report on the first business day of each week. The report shall summarize the events of the prior week and the scheduled and anticipated events for the current week.
 - 4.5.2.2 Vendor shall submit a monthly written report, by the fifth business day following the month's end, for any month in which work was performed. The report shall consist of a narrative regarding the status of the assignment, with an explanation of any discrepancies between the approved work plan and actual progress. Key preliminary findings and issues will be disclosed in the monthly report. Vendor shall present their findings in a meeting with Agency Staff (to be coordinated with the Agency Project Manager) or before the Commission as required and scheduled by the Commission.
- 4.5.3 Vendor shall provide the draft management audit report and final management audit report in accordance with the vendor-established timetable set forth in paragraph 4.4 above. Vendor may be required to prepare both a public (redacted) version and a confidential version of the final management audit report. If and as requested by the Commission, the Vendor shall make a formal presentation of the final management audit report to the Commission at an open meeting. In addition to findings, the final management audit report must:
 - 4.5.3.1 Provide specific and detailed recommendations upon which the Utilities and the Commission may take action to ensure that ratepayers' interests are protected when the Utilities make future gas purchasing, transportation, and storage decisions;
 - 4.5.3.2 Provide a schedule by which the Utilities can accomplish Vendor recommendations; and
 - 4.5.3.3 Quantify the amounts of any monetary impact on ratepayers caused by the findings for the period from October 1, 2004, through September 30, 2006.
- 4.5.4 Contract Monitoring

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- 4.5.4.1 Vendor is responsible for the faithful performance of the Contract and shall have internal monitoring procedures and processes to ensure compliance.
- 4.5.4.2 The State reserves the right to monitor and track Vendor's performance over the course of the Contract including any warranty term. The information gathered may be used in administration of the Contract including payment, and may be used when evaluating the Vendor in future procurements.
- 4.5.4.3 In appropriate circumstances, the State and the Vendor will work together to develop a performance scorecard with conditions, milestones, requirements, or timetables that must be met before additional steps may be taken or any payment is made. The scorecard may additionally record matters related to price, service, quality and other factors deemed important.
- 4.5.4.4 The Vendor shall cooperate with the State in this monitoring and tracking activity, which may require that vendor report progress and problems (with proposed resolutions), provide records of its performance, allow random inspections of its facilities, participate in scheduled meetings and provide management reports as requested by the State.
- 4.5.4.5 The State expects to have a quality Vendor who is willing to work with Agency during the term of the Contract to provide Agency with better quality at the same price, or to provide the same quality at a lower price. Agency may consider, in future procurement evaluations, a Vendor that successfully provides better quality or price.

4.6. Staffing Specifications

Qualifications of Vendor and/or Vendor's staff (or others who would perform): Vendor must have and demonstrate the education, experience and technical ability necessary to perform this contract. Vendor's proposal must show name and relevant professional biographical data of Vendor's staff who would be assigned to this project. Vendor proposal must include a listing of each individual's areas of expertise and relevance for the requirements of this project as well as their projected effort on this project as a percent of total projected person-hours for this project.

- 4.6.1 Education: It is desirable that Vendor Engagement Director possess a degree in accounting, business, economics, or engineering. Additional degrees and/or license certifications in accounting, engineering, business, mathematics, economics, or management would be a plus. All Vendor staff working on this project shall have educational backgrounds appropriate to the areas/issues they will be assigned and are expected to include degrees in accounting, business, engineering and/or economics.
- 4.6.2 Experience: The Vendor Engagement Director shall have relevant experience managing or auditing projects in the utility industry or regulatory environments. Vendor staff shall have relevant gas utility industry experience, either operationally or in prior audit experience. A minimum of one key staff must have Certified Public Accountant designation. It is preferred that one key staff be a registered Professional

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Engineer. It is also preferred that one or more of the members of the Vendor staff have experience in gas supply auditing; additional experience of the Vendor staff in gas purchasing for a utility and gas trading is desirable.

- 4.6.3 Technical/Analytical Ability: Vendor staff must have the ability to meet the scope and objectives of this management audit and to effectively communicate both verbally and in writing. Vendor must become familiar with the issues identified in ICC Docket Nos. 01-0707 and 01-0706 and the positions of the parties in those proceedings as expressed in expert testimony, cross-examination, and briefs. Vendor must also become familiar with 83 Ill. Adm. Code 525 (Purchased Gas Adjustment Clause) and 83 Ill. Adm. Code 505 (Uniform System of Accounts for Gas Utilities).

4.7. Where Services Are To Be Performed

- 4.7.1 During the course of this Contract, Vendor will spend the majority of its time at the Utilities' offices in Chicago, Illinois. Vendor may also need to spend time in the field at utility facilities such as Peoples Gas' Manlove Storage Field located near Fisher, Illinois. Vendor may need to spend some time at Agency's office in Chicago, Illinois, as well as Agency's office in Springfield, Illinois, due to Agency meetings or the need to provide reports. If necessary, office space will be provided by Agency.
- 4.7.2 Work Location Disclosure: Vendor shall disclose the location where the services required shall be performed. If at multiple locations, the known or anticipated value of the services performed at each location shall be identified.
- 4.7.3 This information and economic impact on Illinois and its residents may be considered in the evaluation.
- 4.7.4 If any work identified for performance in the United States is moved to another country, such action may be deemed a breach of the contract.

4.8. Other Specifications

- 4.8.1 "Professional and Artistic" Contract: The Contract resulting from this RFP will be a "Professional and Artistic" Contract.
- 4.8.2 Confidentiality: Vendor's employees, agents, and subcontractors may have access to confidential data maintained by the Agency/Buyer or by Peoples Gas, North Shore, or their affiliates to the extent necessary to carry out its responsibilities under the Contract. As such, the following applies unless agreed to otherwise in writing:
 - 4.8.2.1 Vendor shall presume that all information received pursuant to this Contract is confidential unless otherwise designated by the Agency/Buyer.
 - 4.8.2.2 Vendor shall provide to the Agency/Buyer a written description of its policies and procedures to safeguard confidential information. Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats.

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- 4.8.2.3 Vendor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Vendor in connection with the performance of the Contract.
- 4.8.2.4 Vendor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of this Contract;
- 4.8.2.5 The private or confidential data shall, at all times, remain the property of the Agency/Buyer or the property Peoples Gas, North Shore, or their affiliates from whomsoever the private or confidential data was obtained. Confidential documents obtained by the Vendor from the Utilities or their affiliates shall remain the property of the Utilities or their affiliates. The Vendor shall destroy or return any confidential documents obtained from the Utilities or their affiliates three years from the date of final payment under the Contract or after all litigation, if any, related to this project is completed, whichever event occurs later.
- 4.8.2.6 The Vendor and all persons who perform work under this contract will function as an extension of the Agency Staff for purposes of Sections 5-108 and 10-107 of the PUA [220 ILCS 5/5-108 and 10-107].
- 4.8.2.7 In the event the Vendor receives a request for confidential information, the Vendor shall give the Agency/Buyer written notice of the request. The Agency Project Manager shall provide notice of the request to the Utilities.
- 4.8.2.8 Vendor shall enter into a standard confidentiality agreement with the Utilities as shown in ICC Attachment 1 to this RFP.

4.9. Term of Contract

- 4.9.1 Beginning and end date of initial term. The Contract resulting from this Request for Proposal shall begin upon execution. The Contract end date shall be March 14, 2008, except that provisions relating to liability, insurance, and confidentiality and provision of testimony and related services in formal proceedings concerning the subject matter of the contract, shall survive the end date of the Contract.
- 4.9.2 Renewal. Except as otherwise shown, the State reserves the right to renew the Contract for the same or lesser length of term as the initial term and on the same terms and conditions.
- 4.9.3 Early Termination. The State reserves the right to terminate this Contract without cause and without penalty or further payment being required upon 15 days prior written notice. Upon exercise of this right, Vendor shall be paid for services satisfactorily provided up to the time of termination.
- 4.9.4 The State reserves the right to terminate this Contract immediately without notice and without penalty or further payment if Vendor fails to abide by or enforce provisions intended to maintain the confidentiality of information maintained by Utilities to be confidential and the Agency has not ruled to the contrary.

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- 4.9.5 The Vendor is prohibited from soliciting or performing work for the Utilities or their affiliates for a period of two years after the termination of the Contract without the expressed consent of the Commission.
- 4.9.6 After the conclusion of the Contract, the Vendor shall provide all original source documents and all work produced under the Contract to the Agency upon demand. Work product produced under the Contract includes, but is not limited to, documents, reports, information, documentation of any sort and ideas, whether preliminary or final, including patent, copyright or other intellectual property rights.

5. INSTRUCTIONS FOR PREPARING AND SUBMITTING OFFERS

5.1 GENERAL INSTRUCTIONS:

- 5.1.1 These instructions prescribe the format and content of the Offer. They are designed to facilitate a fair and uniform review process. Failure to adhere to this format will affect our evaluation and may result in disqualification of the Offer.
- 5.1.2 The response--completed, signed and returned--will constitute the Offer. A signed original and the designated number of copies of each Offer are required (see Section 3 of the RFP, "Key Information about this RFP"). Failure to submit the required number of copies may prevent the Offer from being evaluated within the allotted time.
- 5.1.3 Your Offer must provide all information requested and must address all points. **Suggested exceptions to requirements and contract modifications, while allowed, are discouraged. The Agency/Buyer is under no obligation to accept exceptions or modifications suggested by the Vendor (or any Third Parties/subcontractors), and any exceptions or modifications will affect our evaluation and may result in rejection.** If the Vendor (or any Third Parties/subcontractors) does wish to suggest exceptions or modifications, all such exceptions or modifications must be submitted with the Offer. Offers, including suggested exceptions to requirements and contract modifications, must be submitted in ink, typed, or printed form and signed by an authorized representative. The State may require that offers be submitted in electronic form. All terms to which the Vendor does not suggest an exception or modification will be deemed by the Agency/Buyer as having been accepted by the Vendor. Suggested exceptions or modifications shall be made by the Vendor (or any Third Parties/subcontractors) on the relevant page containing the language to be modified or the requirement to which an exception is proposed. If the suggested changes cannot reasonably be made on the relevant page, the Vendor may include specific, suggested exceptions or modifications referencing specific paragraphs of the RFP or Sample Contract for Services on separate pages, and shall attach those pages to the Offer as addenda.
- 5.1.4 The Offer is divided into two parts: (1) the Technical Proposal and (2) the Price Proposal. The Offer must be submitted in a sealed envelope or container, with the Price Proposal under separate cover in a separate, sealed envelope or container in the Offer container. If multiple envelopes or containers for each Offer are used, the envelopes or containers must be numbered in the following fashion: 1 of 4, 2 of 4, etc. The envelopes or containers must be labeled with the following information: Agency/Buyer's Name and Address, RFP Title and Reference Number, Due Date and Time and Vendor's Name and Address.
- 5.1.5 If the Vendor designates any information in its Offer as confidential, the Vendor must also submit one (1) copy of the Offer from which confidential information has been excised. The confidential material must be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the Offer as possible.
- 5.1.6 Offers must not contain promotional or display materials.
- 5.1.7 Attachments must be referenced in the Offer.

5.2 TECHNICAL PROPOSAL: The following documents and responses will be included in the Technical Proposal **and tabbed as such in the order given below:**

5.2.1 TRANSMITTAL LETTER: An individual authorized to legally bind the Vendor must sign the transmittal letter. The person who signs the transmittal letter will be considered the contact person for all matters pertaining to the Offer unless the Vendor designates another person in writing. The letter must include the Vendor's mailing address, e-mail address, fax number and telephone number.

Any request for confidential treatment of information must be included in the transmittal letter in addition to the specific statutory basis supporting the request, an explanation of why disclosure of the information is not in the best interest of the public, and the specific basis under Section 7 of the Illinois Freedom of Information Act (5 ILCS 140/7) for the exemption from disclosure of such information. The transmittal letter must also contain the name, address and telephone number of the individual authorized to respond to the Agency/Buyer about the confidential nature of the information.

5.2.2 TABLE OF CONTENTS: The Vendor must include a table of contents in its Offer. Offers must be page numbered sequentially from front to back.

5.2.3 EXECUTIVE SUMMARY: The Vendor must prepare an Executive Summary and overview of the services it is offering including all of the following information:

5.2.3.1 Statements that demonstrate that the Vendor understands the services as specified in Section 4 of the RFP, "Services Required from the Vendor" and agrees with Section 4 of the Sample Contract for Services, "Terms and Conditions."

5.2.3.2 An overview of the Vendor's plans for all services outlined in Section 4 of this Request for Proposal.

5.2.3.3 A demonstration of the Vendor's experience in and knowledge of the gas utility industry, gas utility regulation, and gas procurement, trading, and storages activities.

5.2.4 TECHNICAL APPROACH (PLAN TO ADDRESS THE SERVICES REQUIRED FROM THE VENDOR): The Vendor must provide a detailed description of how the Vendor plans to approach each service requirement as expressed by the Agency/Buyer in Section 4 of the RFP, "Services Required from the Vendor." Offers must be fully responsive to each service requirement. Offers must identify any deviations from the stated requirements or requirements that the Vendor cannot satisfy. Any deviations from the stated requirements or any requirements that the Vendor cannot satisfy will affect the evaluation of the Offer and may disqualify the Vendor.

5.2.5 TECHNICAL EXPERIENCE: The Vendor must provide the following information regarding its experience:

5.2.5.1 Number of years experience with providing types of services specified in Section 4 of the RFP, "Services Required from the Vendor."

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5.2.5.2 Describe the level of technical experience in providing the types of services specified in Section 4 of the RFP, "Services Required from the Vendor."

5.2.5.3 List all services and other relevant experience similar to those specified in Section 4 of the RFP, "Services Required from the Vendor" that the Vendor has provided to other businesses or governmental entities.

5.2.6 PERSONNEL: The Vendor must provide resumes for all key personnel, including the project manager, who will be involved in providing the services contemplated by this RFP. Resumes must include the full name, education background, and years of experience and employment history particularly as it relates to the scope of services specified herein.

5.2.7 FINANCIAL CAPACITY INFORMATION: Submit end of year financial statements for the last 3 years. Vendor may also be required to provide additional financial information upon request.

5.2.8 CHANGES TO THE RFP: If the Agency/Buyer issues any changes (including amendments or addenda) to this RFP, these changes must be signed by an individual authorized to legally bind the Vendor and included in the Technical Proposal.

5.2.9 STATE FORMS REQUIRED OF THE VENDOR:

The Vendor and all its subcontractors are required to complete and submit all forms listed below as part of the Offer. It is important to note that this section references State forms that the Vendor must complete as part of the procurement process and does not serve as an opportunity for Vendors to insert their own forms.

Attachment A – Qualification Form

Attachment B – Business and Directory Information

Attachment C – References

Attachment D – Department of Human Rights (DHR) Public Contract Number

Attachment E – Minority, Female, Person with Disability Status & Subcontracting

Attachment F – Conflicts of Interest Disclosures

Attachment G – Taxpayer Identification Number

Attachment H – Information Regarding Terminations, Litigation & Debarment

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Attachment A
Qualification Form

The undersigned authorized representative of Vendor submits the following and hereafter attached Qualification Information to the Agency with the understanding that the Agency will use and rely upon the accuracy and currency of the information in the evaluation of Vendor's Offer to the Agency/Buyer.

VENDOR (Official Name and D/B/A)

Signature

Date

Printed Name

Title

Address

City/State

Zip Code

Telephone

Facsimile

E-mail

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Attachment B
Business and Directory Information

(a)	Name of Business (Official Name and D/B/A)
(b)	Business Headquarters (include Address, Telephone and Facsimile)
(c)	If a Division or Subsidiary of another organization provide the name and address of the parent
(d)	Billing Address
(e)	Name of Chief Executive Officer
(f)	Customer Contact (include Name, Title, Address, Telephone, Toll-Free Number, Facsimile and E-mail)
(g)	Company Web Site
(h)	Type of Organization (i.e., Sole Proprietor, Corporation, Partnership, etc. -- should be the same as on the Taxpayer ID form below)
(i)	Length of Time in Business
(j)	Annual Sales (for most recently completed Fiscal Year)
(k)	Number of Full-Time Employees (average from most recent Fiscal Year)
(l)	Type of and description of business
(m)	State of incorporation, state of formation or state of organization
(n)	Identify and specify the location(s) and telephone numbers of the major offices and other facilities that relate to the Vendor's performance under the terms of this RFP.
(o)	Identify the Vendor's accounting firm
(p)	The successful Vendor will be required to register to do business in Illinois. If already registered, provide the date of the Vendor's registration to do business in Illinois and the name of the Vendor's registered agent in the State.

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Attachment C References

Provide references from established firms or government agencies, (four preferred; two of each type preferred) other than the procuring agency, that can attest to your experience and ability to perform the contract subject of this RFP. **Note: The Vendor must provide a minimum of two references for projects performed for public utility commissions**

(1) Firm/Government Agency (Name):	Contact Person Name: Address: Phone: E-mail Address:
Types of Supplies/Services Provided and Dates Provided/Contracted:	
(2) Firm/Government Agency (Name):	Contact Person Name: Address: Phone: E-mail Address:
Types of Supplies/Services Provided and Dates Provided/Contracted:	
(3) Firm/Government Agency (Name):	Contact Person Name: Address: Phone: E-mail Address:
Types of Supplies/Services Provided and Dates Provided/Contracted:	
(4) Firm/Government Agency (Name):	Contact Person Name: Address: Phone: E-mail Address:
Types of Supplies/Services Provided and Dates Provided/Contracted:	

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Attachment D
Department of Human Rights (DHR) Public Contract Number

If Vendor has employed fifteen (15) or more full-time employees at any time during the 365-day period immediately preceding the publication of this RFP in the Illinois Procurement Bulletin (or issuance date if not published), then Vendor must have a current Public Contract Number or have proof of having submitted a completed application for one prior to the offer opening date. If the Agency cannot confirm compliance, it will not be able to consider the bid or offer. Please complete the appropriate sections below.

Name of Company (and D/B/A): _____

DHR Public Contracts Number: _____

_____(check if applicable) The number is not required as the company has employed 14 or less full-time employees during the 365-day period immediately preceding the publication of this RFP in the Illinois Procurement Bulletin (or issuance date if not published).

IF NUMBER HAS NOT YET BEEN ISSUED:

Date Completed Application was submitted to DHR: _____

Date of Expiration: _____

NOTICE:

Upon expiration and until their Contractor Identification Number is renewed, companies will not be eligible to be awarded contracts by the State of Illinois or other jurisdictions that require a current DHR number as a condition of contract eligibility (44 IL Adm. Code 750.210(a)).

Numbers issued by the Department of Human Rights (or its predecessor agency, the Illinois Fair Employment Practices Commission) prior to July 1, 1998, are no longer valid. This affects numbers below 89999-00-0. Valid numbers begin with 90000-00-0.

IF YOUR ORGANIZATION HOLDS AN EXPIRED NUMBER, YOU MUST RE-REGISTER WITH DHR.

Bidder/Vendor may obtain an application form by:

1. **Telephone:** Call the DHR Public Contracts unit between Monday and Friday, 8:30 a.m. to 5:00 p.m. CST, at (312) 814-2431
2. **Internet:** Download the form from the Internet at http://www.state.il.us/cms/1_selling/vendfrms.htm. In the Purchasing area of CMS home page, click the "Download Vendor Forms" line.
3. **Mail:** Write to the Department of Human Rights, Public Contracts Unit, 100 West Randolph Street, Suite 10-100, Chicago, Illinois 60601.

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Attachment E
Minority, Female, Person with Disability Status and Subcontracting

The Business Enterprise Program Act for Minorities, Females and Persons with Disabilities (BEP) (30 ILCS 57511) establishes a goal for contracting with businesses that have been certified as owned and controlled by persons who are minority, female or who have disabilities. While you must complete this form, your response will not be considered in the evaluation. A listing of certified businesses may be obtained from the Department of Central Management Services' Business Enterprise Program for Minorities, Females and Persons with Disabilities by calling 312/814-4190 (Voice & TDD), 800/356-9206 (Toll Free), or 800/526-0844 (Illinois Relay Center for Hearing Impaired).

Name of Company (and D/B/A): _____

Is your company at least 51% owned and controlled by individuals in one or more of the following categories? Yes _____ No _____

If "Yes" check each that applies:

Category:

Minority _____

Female _____

Person with Disability _____

Disadvantaged _____

If "Yes," please identify, by checking the applicable blanks, which agency certified the business and in what category:

Certifying Agency:

Department of Central Management Services _____

Women's Business Development Center _____

Chicago Minority Business Development Council _____

Illinois Department of Transportation _____

Other (please identify): _____

Category:

Minority _____

Female _____

Person with Disability _____

Disadvantaged _____

If you are not a certified BEP business, do you have a written policy or goal regarding contracting or subcontracting with BEP certified vendors? Yes ____ (attach copy) No ____

If "No," will you make a commitment to contact BEP certified vendors and consider them for subcontracting opportunities on this contract? Yes ____ No ____

Do you plan on ordering supplies or services in furtherance of this contract from BEP certified vendors? Yes ____ No ____

If "Yes," please identify what you plan to order, the estimated value as a percentage of your total Offer, and the names of the BEP certified vendors you plan to use.

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Attachment F Conflicts of Interest Disclosures

Instructions. The Illinois Procurement Code requires that Vendors desiring to enter into certain contracts with the State of Illinois must disclose the financial and potential conflict of interest information that is specified below (30 ILCS 500/50-13 and 50-35 (a)(b)(h)).

Vendor shall disclose the financial interest, potential conflict of interest and contract information identified in Sections 1, 2, 3, and 4 below as a condition of receiving an award or contract. Please submit this information along with your bid or offer.

Section 1 applies to all contracts regardless of dollar amount. In addition, you must complete Sections 2, 3, and 4 for contracts with an annual value exceeding \$10,000 that must be procured using one of the authorized competitive methods of source selection.

If the Vendor is a wholly owned subsidiary of a parent organization, separate disclosures (Sections 2, 3, and 4) must be made by the Vendor and the parent. For purposes of this form, a parent organization is any entity that owns 100% of the Vendor.

When determining ownership or distributive income shares, use the most current information that you consider reliable, but in no event for a period before your last completed fiscal period.

A designee may submit this form on behalf of the Vendor (or its parent). However, that person must have verified the information with each affected individual.

Vendor Information

This disclosure information is submitted on behalf of (show official name of Vendor, and if applicable, D/B/A and parent):

Name of Vendor:
D/B/A (if used):
Name of any Parent Organization:
Address:
Contact Person: Name: Title: Address: Telephone/Fax:

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Section 1: Section 50-13 Conflicts of Interest

(a) Prohibition. It is unlawful for any person holding an elective office in this State holding a seat in the General Assembly, or appointed to or employed in any of the offices or agencies of State government and who receives compensation for such employment in excess of 60% of the salary of the Governor of the State of Illinois **[\$90,414.60]**, or who is an officer or employee of the Capital Development Board or the Illinois Toll Highway Authority, or who is the spouse or minor child of any such person to have or acquire any contract, or any direct pecuniary interest in any contract therein, whether for stationery, printing, paper, or any services, materials, or supplies, that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois or in any contract of the Capital Development Board or the Illinois Toll Highway Authority.

(b) Interests. It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (a) is entitled to receive (i) more than 7 1/2% of the total distributable income or (ii) an amount in excess of the salary of the Governor **(\$150,691.00)**, to have or acquire any such contract or direct pecuniary interest therein.

(c) Combined interests. It is unlawful for any firm, partnership, association, or corporation, in which any person listed in subsection (a) together with his or her spouse or minor children is entitled to receive (i) more than 15%, in the aggregate, of the total distributable income or (ii) an amount in excess of 2 times the salary of the Governor **[\$301,382.00]**, to have or acquire any such contract or direct pecuniary interest therein.

(d) Securities. Nothing in this Section invalidates the provisions of any bond or other security previously offered or to be offered for sale or sold by or for the State of Illinois.

(e) Prior interests. This Section does not affect the validity of any contract made between the State and an officer or employee of the State or member of the General Assembly, his or her spouse, minor child or any combination of those persons if that contract was in existence before his or her election or employment as an officer, member, or employee. The contract is voidable, however, if it cannot be completed within 365 days after the officer, member, or employee takes office or is employed.

(f) Exceptions.

(i) Public aid payments. This Section does not apply to payments made for a public aid recipient.

(ii) Teaching. This Section does not apply to a contract for personal services as a teacher or school administrator between a member of the General Assembly or his or her spouse, or a State officer or employee or his or her spouse, and any school district, public community college district, or State University.

(iii) Ministerial duties. This Section does not apply to a contract for personal services of a wholly ministerial character, including but not limited to services as a laborer, clerk, typist, stenographer, page, bookkeeper, receptionist, or telephone switchboard operator, made by a spouse or minor child of an elective or appointive State officer or employee or of a member of the General Assembly.

(iv) Child and family services. This Section does not apply to payments made to a member of the General Assembly, a State officer or employee, his or her spouse or minor child acting as a foster parent, homemaker, advocate, or volunteer for or in behalf of a child or family served by the Department of Children and Family Services.

(v) Licensed professionals. Contracts with licensed professionals provided they are competitively bid or part of a reimbursement program for specific, customary goods and

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services through the departments of Children and Family Services, Human Services, Public Aid, Public Health, or Aging.

CHECK ONE:

_____ No Conflicts Of Interest

_____ Potential Conflict of Interest *(If checked, name each conflicted individual, the nature of the conflict, and the name of the State agency that is associated directly or indirectly with the conflicted individual.)*

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Section 2: Disclosure of Financial Interest in the Vendor

All vendors, except for publicly traded corporations subject to SEC reporting requirements and privately held corporations with more than 400 shareholders, must complete subsection (a) below. Publicly traded corporations may complete subsection (b) and privately held corporations with more than 400 shareholders may complete subsection (c) in lieu of completing subsection (a).

(a) General disclosure. For each individual having any of the following financial interests in the vendor (or its parent), please mark each that apply and show the applicable name and address. Then complete Sections 3 and 4. If no individual has any of the following financial interests in the vendor (or its parent), check this blank _____, skip Section 3, but complete Section 4.

Ownership exceeding 5% (_____)
Ownership value exceeding \$90,414.60 (_____)
Distributive Income Share exceeding 5% (_____)
Distributive Income Share exceeding \$90,414.60 (_____)

Name: _____
Address: _____

For each individual identified above, show the dollar value of the ownership interest: \$_____ or the proportionate share of the ownership interest: _____% and the type of ownership/distributable income share:

Sole Proprietorship _____
Stock _____
Partnership _____
Other (explain) _____

**For partnerships with more than 50 but fewer than 400 partners, the proportionate share of ownership interest of each individual identified above may be shown in the following ranges:*

1% _____
1 up to 2% _____
2 up to 3% _____
3 up to 4% _____
4 up to 5% _____
and in additional 1% increments as appropriate _____%

For partnerships with more than 400 partners, the proportionate share of ownership may be shown in the following ranges:

0.5% or less _____
>0.5 to 1.0% _____
>1.0 to 1.5% _____
and as appropriate in additional 0.5 increments _____%

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(b) Publicly traded corporations subject to SEC reporting requirements. These Vendors may submit their 10k disclosure (*include proxy if referenced in 10k*) in satisfaction of the financial and conflict of interest disclosure requirements set forth in subsections **50-35 a** and **b** of the Procurement Code. An SEC 20f or 40f, supplemented with the names of those owning in excess of 5% and up to the ownership percentages disclosed in those submissions, may be accepted as being substantially equivalent to 10k. Vendor may skip Section 3 of this form, but must complete Section 4.

Check here if submitting a 10k _____, 20f _____, or 40f _____.

(c) Privately held corporations with more than 400 shareholders. These Vendors may submit the information identified in 17 CFR 229.401 and list the names of any person or entity holding any ownership share in excess of 5% in satisfaction of the financial and conflict of interest disclosure requirements set forth in subsections **50-35 a** and **b** of the Procurement Code. Vendor may skip Section 3 of this form, but must complete Section 4.

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Section 3: Disclosure of Potential Conflicts of Interest

For each individual having the level of financial interest identified in Section 2(a) above, indicate which, if any, of the following potential conflict of interest relationships apply. If "Yes," please describe each situation (label with appropriate letter) using the space at end of this Section 3 (attach additional pages as necessary).

(a) State employment, currently or in the previous 3 years, including contractual employment of services directly with the individuals identified in Section 1 in their individual capacity unrelated to the Vendor's contract. Identify contracts with the VENDOR in Section 4. Yes ____ No ____

(b) State employment of spouse, father, mother, son, or daughter, including contractual employment for services in the previous 2 years. Yes ____ No ____

(c) Elective status; the holding of elective office of the State of Illinois, the government of the United States, any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois currently or in the previous 3 years. Yes ____ No ____

(d) Relationship to anyone holding elective office currently or in the previous 2 years; spouse, father, mother, son, or daughter. Yes ____ No ____

(e) Appointive office; the holding of any appointive government office of the State of Illinois, the United States of America, or any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois, which office entitles the holder to compensation in excess of expenses incurred in the discharge of that office currently or in the previous 3 years. Yes ____ No ____

(f) Relationship to anyone holding appointive office currently or in the previous 2 years; spouse, father, mother, son, or daughter. Yes ____ No ____

(g) Employment, currently or in the previous 3 years, as or by any registered lobbyist of the State government. Yes ____ No ____

(h) Relationship to anyone who is or was a registered lobbyist in the previous 2 years; spouse, father, mother, son, or daughter. Yes ____ No ____

(i) Compensated employment, currently or in the previous 3 years, by any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections. Yes ____ No ____

(j) Relationship to anyone; spouse, father, mother, son, or daughter; who is or was a compensated employee in the last 2 years of any registered election or reelection committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections. Yes ____ No ____

Explanation of potential conflicts of interest:

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Section 4: Current and Pending Contracts and Offers (bids and proposals)

(a) Vendor shall identify each contract it has with other units of State of Illinois government by showing agency name and other descriptive information such as purchase order or contract reference number (attach additional pages as necessary). Show "none" if appropriate.

(b) Vendor shall identify whether it has pending contracts (including leases), bids, proposals, or other ongoing procurement relationships with other units of State of Illinois government by showing agency name and other descriptive information such as bid or project number (attach additional pages as necessary). Show "none" if appropriate.

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Attachment G
Taxpayer Identification Number

I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), **and**
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, **and**
3. I am a U.S. person (including a U.S. resident alien).

Name (Printed): _____

Taxpayer Identification Number:

Social Security Number _____
or
Employer Identification Number _____

Legal Status (check one):

- | | |
|--|--|
| _____ Individual | _____ Governmental |
| _____ Sole Proprietorship | _____ Nonresident alien |
| _____ Partnership/Legal Corporation | _____ Estate or Trust |
| _____ Tax-exempt | _____ Pharmacy (non-corporate) |
| _____ Corporation providing or
billing medical and /or
health care services | _____ Pharmacy/Funeral Home/Cemetery (Corp.) |
| _____ Corporation NOT providing
or billing medical and / or
health care services | _____ Other _____ |

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Attachment H

Information Regarding Terminations, Litigation and Debarment

The Agency/Buyer requests that the Vendor provide the following information:

1. During the last five (5) years, has the Vendor had a contract for services terminated for any reason? If so, provide full details related to the termination.
2. During the last five (5) years, describe any damages or penalties or anything of value traded or given up by the Vendor under any of its existing or past contracts as it relates to services performed that are similar to the services contemplated by this RFP and the resulting Contract. If so, indicate the reason for the penalty or exchange of property or services and the estimated amount of the cost of that incident to the Vendor.
3. During the last five (5) years, describe any order, judgment or decree of any Federal or State authority barring, suspending or otherwise limiting the right of the Vendor to engage in any business, practice or activity.
4. During the last five (5) years, list and summarize pending or threatened litigation, administrative or regulatory proceedings, or similar matters that could affect the ability of the Vendor to perform the required services. The Vendor must also state whether it or any owners, officers, or primary partners have ever been convicted of a felony. Failure to disclose these matters may result in rejection of the bid Offer or in termination of any subsequent contract. This is a continuing disclosure requirement. Any such matter commencing after submission of a bid Offer, and with respect to the successful Vendor after the execution of a contract, must be disclosed in a timely manner in a written statement to the Agency.
5. During the last five (5) years, have any irregularities been discovered in any of the accounts maintained by the Vendor on behalf of others? If so, describe the circumstances of irregularities or variances and disposition of resolving the irregularities or variances.

5.3 PRICE PROPOSAL:

The Price Proposal must be submitted in a **separate, sealed envelope or container in the Offer container**. The Vendor will provide its Price Proposal in accordance with the specifications provided below for the services specified in Section 4 of the RFP, "Services Required from the Vendor."

Detail pricing requirements with at least the following categories of information:

5.3.1 Method and Rate of Compensation: Agency anticipates a Time only (Professional Fees) contract with a **Not to Exceed ("NTE") amount**. However, Vendor must identify the method of charging (hourly, daily, project, item, or other method) and provide the rate or price for each type of supply or service. Vendor estimated hours allocated to each work phase (i.e. analysis, interviews and document review; testimony preparation, review and cross-examination; brief writing, and review) must indicate the position title and estimated number of hours to be spent by each individual consultant. An estimate of the total time required from date of commencement of work until the attainment of each specific milestone must also be included. Irrespective of the project compensation methodology, to demonstrate Vendor's understanding of the tasks involved in this project, Vendor is to itemize cost to show the following for each individual consultant:

5.3.1.1 Position, (e.g., project manager, senior analyst, consultant, etc.)

5.3.1.2 Estimated hours for each functional area and work step.

5.3.1.3 Hourly billing rate for each position.

5.3.1.4 Total personnel costs.

5.3.1.5 Subcontractor costs. Itemized as in steps 5.3.1.1 to 5.3.1.4 above.

5.3.1.6 Other Vendor Personnel Costs -Itemized.

5.3.2 Maximum Compensation for Supplies and/or Services: Show price in checked category only:

5.3.2.1 ☐ ~~Firm Price~~ _____

5.3.2.2 ☒ Not-to-exceed _____

5.3.2.3 ☐ ~~Estimated Price~~ _____

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5.3.2.4. ☐ Other ~~[please specify]~~ _____

5.3.3 Expenses: This contract does not allow for reimbursement of any expense incurred by vendor, including but not limited to telephone or other communications device, postage, copying, travel, transportation, lodging, food and per diem.

5.3.4 Payment Terms and Conditions (including when paid, frequency and retainage): Payment will be made after completion of the Contract unless otherwise specified below.

5.3.4.1 Pursuant to the Commission's August 16, 2006, Order in Docket No. 06-0556, Peoples Gas and North Shore Gas have been ordered to pay for Vendor services involved in this RFP. However, in all matters related to this project, the Agency shall be the sole client of Vendor. Vendor shall submit invoices to Agency Project Manager for review and approval. An invoice for payment may be submitted at any time following the month's end, for any month in which work was performed. The compensation of professional fees for this project shall be tied to the accomplishment of specific milestones and steps in the current approved project plan as outlined in paragraph 4.4 above. Professional fees are subject to 10% retention as described in paragraph 5.3.4.2, below. Each invoice shall be of sufficient detail to relate the costs therein to the work performed, by individual, to the approved preliminary or detailed work plans or a specific milestone submitted by Vendor and approved by Staff. After Agency Project Manager review and approval of Vendor invoice, the Agency Project Manager will invoice the Utilities, and the Utilities will make prompt payment directly to Vendor.

5.3.4.2 Ten percent (10%) of all Agency approved professional fees will be retained until satisfactory completion of the project. The 10% retention will be released when all contractual obligations within the control of the Vendor have been fulfilled. The 10% retention will be permanently withheld from Vendor if:

5.3.4.2.1 For reason(s) Staff believes to be within Vendor's control, the reports listed in paragraph 4.5 are not provided to Staff by the dates specified in the work plan or agreed on with Staff, or

5.3.4.2.2 For reason(s) Staff believes to be within Vendor's control, the duties specified in Section 4 are not performed or the milestones provided by the current approved work plan are not met, or

5.3.4.2.3 For reason(s) specified in 4.9.4.

5.3.5 Discounts: Not Applicable.

5.3.6 Tax Exemption: The ordering Agency/Buyer's Illinois tax exemption number is E9984-0855-04. Federal tax exemption information is available upon request to the ordering Agency/Buyer.

6. HOW WE WILL EVALUATE OFFERS

- 6.1 EVALUATION STEPS:** The evaluation and award process will consist of the following:
- 6.1.1 Review of the offers to assess compliance with mandatory administrative requirements.
 - 6.1.2 Detailed evaluation of mandatory service requirements and proposed services, programs, and solutions.
 - 6.1.3 Clarifications, discussions, and presentations (if determined necessary by the Evaluation Committee). Best and Final Offers may be included in this step or at later stages of the evaluation process.
 - 6.1.4 Scoring of Technical Proposals.
 - 6.1.5 Scoring of Price Proposals (see Section 6.3.3.4 of the RFP).
 - 6.1.6 Integration of the Technical Proposal score and the Price Proposal score into an Evaluation Committee recommendation to management.
 - 6.1.7 Access the Illinois Office of the Comptroller's Offset System as part of the process to determine if the vendor (and any known sub-contractors) who submitted the offer to be recommended for award has an unsatisfied delinquent debt with the State. If delinquent debt is discovered, the selected vendors' offer may be found to be non-responsive. This step does not relieve any vendor from satisfying any debt owed to the State.
 - 6.1.8 Award decision by management.
 - 6.1.9 If we select your Offer for award, we will post the notice to the Illinois Procurement Bulletin and may send you written notice. This notice will extend the Offer Firm Time until we sign a contract or determine negotiations with you have failed. Receipt or posting of a notice of award is not equivalent to a contract with the State. Protested awards are subject to resolution of the protest.
- 6.2 EVALUATION COMMITTEE:** The Agency/Buyer intends to conduct a comprehensive, fair and impartial evaluation of offers received in response to this RFP. The Agency/Buyer will use an Evaluation Committee to review and evaluate the offers.
- 6.3 EVALUATION CRITERIA:** We evaluate four categories of information: administrative compliance, Vendor responsibility, responsiveness and price. All offers, regardless of the type of RFP, must meet the following administrative and responsibility criteria.
- 6.3.1 Evaluation of Administrative Compliance:** The Agency/Buyer will determine whether the Offer complied with Section 5 of the RFP, "Instructions for Preparing and Submitting Offers." We must reject your Offer if you submit it late. Failure to meet other requirements will affect our evaluation and may result in rejection.
 - 6.3.2 Evaluation of Vendor Responsibility:** The Agency/Buyer will determine whether the Vendor submitting the Offer is one with whom the State can or should do business. Factors that may be evaluated to determine "responsibility" include, but are not limited to: certifications, conflict of interest disclosures, taxpayer identification number, past performance, references (including those found outside the Offer), compliance with

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applicable laws, financial stability and the perceived ability to perform completely as specified.

A Vendor must at all times have financial resources sufficient, in the opinion of the State, to ensure performance of the contract and must provide proof upon request. Any failure to supply information and our determination of the quality of the information will affect our evaluation and may result in rejection.

6.3.3 Evaluation of Responsiveness and Price: A point ranking system or other evaluation methods are tools the Agency/Buyer often, but not always, uses to aid it in the evaluation process. The Agency/Buyer reserves the right to use its discretion to eliminate offers that are deemed unacceptable.

We will determine how well offers satisfy Section 4 of the RFP, "Services Required from the Vendor" in terms of "responsiveness" to the requirements. We will rank offers, without consideration of price, from best to least qualified using a point ranking system (unless otherwise specified) as an aid in conducting the evaluation. References may be considered again in this portion of the evaluation.

We will determine whether any failure to supply information, or the quality of the information, will result in rejection or downgrading the offer. Vendors who do not rank sufficiently high need not be considered for price evaluation and award.

The "responsible" offeror whose offer meets "administrative" requirements and minimum requirements will be eligible for award consideration. If we do not consider the price submitted in response to the RFP to be fair and reasonable and that price cannot be negotiated to an acceptable level, we reserve the right to award to the next highest ranked Vendor. We will determine whether the price is fair and reasonable by considering the Offer, including the Vendor's qualifications, the Vendor's reputation, all prices submitted, other known prices, the project budget and other relevant factors. The point evaluation system is described below:

6.3.3.1 The total number of points for "responsiveness" is 900.

6.3.3.2 Vendors who do not receive 600 of the total "responsiveness" points need not be considered for price evaluation and award.

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6.3.3.3 The elements of responsiveness that will be evaluated and their relative weights are:

<u>Elements</u>	<u>Weight</u>
Understanding the Task. This refers to the Vendor's understanding of the Commission's needs, the Commission's objective in approving the investigation, and the nature and scope of the work involved.	150
Work Plan. This refers to an evaluation of the Vendor's preliminary work plan as discussed in Section 4.3.1.2.1 of this RFP. The preliminary work plan will document the Vendor's understanding of the Goal and Objectives in this RFP. This evaluation will be based upon data presented in the preliminary work plan and the approach on specific tasks.	100
Consulting Firm's Qualifications. This includes the demonstrated ability of the Vendor to perform the required work in a qualified and timely manner.	150
Personnel Qualifications. This refers to the competence of the professional personnel who are assigned to the job by the Vendor. Qualifications of professional personnel will be measured by education and experience, with particular emphasis on experience with similar studies.	250
Soundness of Approach. Emphasis here is on the techniques for collecting and analyzing data, statistical comparisons to be used, sequence and relationships of major steps, methods of managing the investigation and cost/benefit considerations of recommendations.	250
Vendor Interviews. If Agency decides to conduct interviews, only those vendors whose proposals are considered most responsive (based on the evaluation criteria shown above) will be invited to interview. Interview evaluation criteria will be announced in Agency interview invitations. The points awarded in the five above listed elements may be adjusted as a result of the vendor interviews.	

6.3.3.4 Price will be a weighted element.

6.3.3.5 The total number of points for "price" is **100**. We will determine "price" points using the following formula:

$$\text{Maximum Price Points} \times (\text{Lowest Price} / \text{Offeror's Price}) = \text{Total Price Points}$$

6.3.3.6 The maximum number of points is 1,000 (Responsiveness 900 + Price 100).

7. ILLINOIS PROCUREMENT NOTICES AND REQUIREMENTS

7.1 NOTICES AND REQUIREMENTS FOR THIS RFP:

7.1.1 ILLINOIS PROCUREMENT BULLETIN: The Agency/Buyer publishes in the electronic Illinois Procurement Bulletin (Supplies and Services Edition) various procurement information including Notices of Procurement Opportunities and Notices of Award. Procurement information may not be available in any other form or location. The Vendor may register to view and download procurement information at <http://www.purchase.state.il.us/>. The Vendor is responsible for monitoring the Illinois Procurement Bulletin and the Agency/Buyer cannot be held responsible if you fail to receive the optional e-mail notices.

7.1.2 NON-DISCRIMINATION POLICY: In compliance with the State and Federal Constitutions, the Illinois Human Rights Act, the United States Civil Rights Act, and Section 504 of the Federal Rehabilitation Act, the State of Illinois does not unlawfully discriminate in employment, contracts, or any other activity.

7.1.3 RESPONSIBILITY TO READ AND UNDERSTAND: Failure to read, examine and understand the RFP will not excuse any failure to comply with the requirements of the RFP or any resulting contract, nor will such failure be a basis for claiming additional compensation. If you suspect an error, omission or discrepancy in this RFP, you must immediately notify the RFP Contact listed in Section 3.2 of the RFP. The Agency/Buyer will issue written instructions, if appropriate.

7.1.4 AMENDMENTS TO THE RFP: The Agency/Buyer reserves the right to amend the RFP at any time. The Vendor must acknowledge receipt of an amendment in its Offer with the signature of an individual legally authorized to legally bind the Vendor. If the amendment occurs after the closing date for receipt of Offers, the Agency/Buyer may, in its sole discretion, allow Vendors to amend their Offers in response to the Agency/Buyer's amendment if necessary.

7.2 NOTICES AND REQUIREMENTS OF THE OFFER:

7.2.1 SUBMISSION OF OFFER: You may mail or hand-deliver Offers. We do not allow computer, fax, or other electronic submissions unless otherwise authorized. We must actually receive submissions as specified. It will not be sufficient to show that you mailed or commenced delivery before the due date and time. All times are State of Illinois local times. You must allow adequate time to accommodate all security screenings prior to delivery at the delivery site.

7.2.2 MODIFICATION/WITHDRAWAL OF OFFER: Written requests to modify the Offer received by the State prior to the scheduled opening time will be accepted and the modifications will be made after opening. Written requests to withdraw the Offer received by the State prior to the scheduled opening time will be honored. No oral requests for either modification or withdrawal will be allowed. Requests must be addressed and labeled in the same manner as the Offer and marked as a MODIFICATION or WITHDRAWAL of the offer.

7.2.3 LATE DELIVERY: We will not consider Offers received at the designated submission location after the stated due date and time.

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- 7.2.4 BEST AND FINAL:** We may request best and final offers if deemed necessary and will determine the scope and subject of any best and final request. However, you should not expect that we will ask for best and finals to give you an opportunity to strengthen your Offer. Therefore, you must submit your best offer based on the terms and conditions set forth in this RFP.
- 7.2.5 RESERVATIONS:** We reserve the right to reject all Offers; to reject individual Offers for failure to meet any requirement; to award by item, part or portion of an item, group of items, or total; and to waive minor defects. We may seek clarification of the Offer from you at any time, and failure to respond is cause for rejection. Clarification is not an opportunity to change the Offer. Submission of an Offer confers on you no right to an award or to a subsequent contract. The RFP process is for the State's benefit only and is to provide the State with competitive information to assist in the selection process. All decisions on compliance, evaluation, terms and conditions will be made solely at our discretion and made to favor the State.
- 7.2.6 COST OF PREPARATION:** We are not responsible for and will not pay any costs associated with the preparation and submission of your Offer.
- 7.2.7 PUBLIC RECORDS AND REQUESTS FOR CONFIDENTIAL TREATMENT:** The Agency/Buyer may treat all information submitted by a Vendor as public information following the conclusion of the selection process unless the Vendor properly requests that information be treated as confidential at the time the Offer was submitted. All information submitted is subject to the Illinois Freedom of Information Act ("IFOIA") (5 ILCS 140), the Code, and other applicable laws and rules.

Vendors are encouraged to familiarize themselves with the IFOIA and the Code before submitting an Offer. The Agency/Buyer will copy public records as required to comply with the public records laws. Any request for confidential treatment of information must be included in the transmittal letter with the Vendor's Offer. The Vendor must enumerate the specific grounds in the IFOIA, the Code, or other applicable law which support treatment of the material as exempt from disclosure and explain why disclosure is not in the best interest of the public. The request for confidential treatment of information must also include the name, address, and telephone number of the person authorized by the Vendor to respond to any inquiries by the Agency/Buyer concerning the confidential status of the materials.

Any Offer submitted which contains confidential information must be conspicuously marked on the outside as containing confidential information, and each page upon which confidential information appears must be conspicuously marked as containing confidential information. Identification of the entire Offer as confidential may be deemed non-responsive and disqualify the Vendor. If the Vendor designates any portion of the RFP as confidential, the Vendor must submit one copy of the Offer from which the confidential information has been excised. This excised copy is in addition to the number of copies requested in Section 3 of the RFP, "Key Information about this RFP." The confidential material must be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the Offer as possible.

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The Agency/Buyer will treat as confidential the information marked confidential. In the event the Agency/Buyer receives a request for information marked confidential, it will give the Vendor written notice five (5) calendar days prior to the release of the information to allow the Vendor to seek injunctive relief pursuant to the IFOIA or the Code. Absent the granting of such relief, the Agency/Buyer shall release the information ten (10) calendar days after the information request. The Vendor's failure to request confidential treatment of material will be deemed by the Agency/Buyer as a waiver of any right to confidentiality which the Vendor may have had.

Upon award, the name of the successful Vendor and price as well as sufficient information from that Offer will be made available to the public to allow for meaningful review and protest regardless of any claim of exemption. After award, we will disclose only the name of the unsuccessful Offerors. Any release of information is governed by the IFOIA, the Code and any other applicable law or statute.

7.2.8 DOWNGRADING OR DISQUALIFICATION: The following are cause for downgrading or disqualification of the Offer, depending on the circumstances:

- 7.2.8.1 The Vendor fails to deliver the Offer by the due date and time.
- 7.2.8.2 The Vendor fails to deliver the Price Proposal in a separate envelope or container.
- 7.2.8.3 The Vendor fails to meet one or more requirements of the RFP.
- 7.2.8.4 The Vendor's Offer materially changes one or more requirements of the RFP.
- 7.2.8.5 The Vendor's Offer limits the rights of the Agency/Buyer.
- 7.2.8.6 The Vendor fails to include information necessary to substantiate that it will be able to meet a Required Service. A response of "will comply" or merely repeating the Required Service is not sufficient. Responses must indicate present capability; representations that future developments will satisfy the Required Services are not sufficient.
- 7.2.8.7 The Vendor fails to respond to the Agency/Buyer's request for information, documents, or references.
- 7.2.8.8 The Vendor fails to include a bid bond or performance security (if required).
- 7.2.8.9 The Vendor fails to include any signature, certification, authorization, stipulation, disclosure or guarantee requested in this RFP.
- 7.2.8.10 The Vendor initiates unauthorized contact regarding the RFP with state employees.
- 7.2.8.11 The Vendor provides misleading or inaccurate responses.
- 7.2.8.12 The Vendor fails to attend a mandatory Vendor's Conference.

7.2.9 NONMATERIAL AND MATERIAL VARIANCES: The Agency/Buyer reserves the right to waive or permit cure of nonmaterial variances in the Offer if it is in the Agency/Buyer's best interest to do so. "Nonmaterial

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variances” include minor informalities that do not affect responsiveness; that are merely a matter of form or format; that do not prejudice other vendors; that do not change the meaning or scope of the RFP; or that do not reflect a material change in Section 4 of the RFP, “Services Required from the Vendor.” In the event the Agency/Buyer waives or permits cure of nonmaterial variances, such waiver or cure will not modify the RFP requirements or excuse the Vendor from full compliance with RFP specifications or other contract requirements if the Vendor is awarded the contract. The determination of materiality is in the sole discretion of the Agency/Buyer.

7.2.10 VERIFICATION OF OFFER CONTENTS: The content of an Offer submitted by a Vendor is subject to verification. Misleading or inaccurate responses will result in disqualification.

7.2.11 PRESENTATIONS: Vendors may be required to make a presentation of the Offer. The presentation may occur at the Agency/Buyer’s offices or at the offices of the Vendor. The determination as to need for presentations, the content, the location, order, and schedule of the presentations is at the sole discretion of the Agency/Buyer. The presentation may include slides, graphics and other media selected by the Vendor to illustrate the Vendor’s Offer. The presentation will not materially change the information contained in the Offer.

7.2.12 RESTRICTIONS ON GIFTS AND ACTIVITIES: The Code and the State Officials and Employees Ethics Act (“the Act”)(**5 ILCS 430**) restrict gifts which may be given or received by State employees and require certain individuals to disclose information concerning their activities with State government. Vendors are responsible for determining the applicability of the Code and the Act and any other legal requirements to their activities and to comply with those requirements. In addition, under Illinois law, it is a felony offense to bribe or attempt to bribe a public official.

7.3 NOTICES AND REQUIREMENTS OF THE VENDOR FIRM:

7.3.1 PUBLIC CONTRACTS NUMBER: Vendors with 15 or more employees must have a Public Contracts Number issued by (or completed application submitted to) the Illinois Department of Human Rights (DHR) prior to the opening date. Contact DHR at (312) 814-2431.

7.3.2 OUT OF STATE COMPANIES: Please contact the Illinois Secretary of State ((217) 782-1834) regarding a Certificate of Authority to Transact Business in Illinois. Application Form BCA 13.15 may be downloaded from http://www.cyberdriveillinois.com/departments/business_services/publications_and_forms/bca.html. It is entirely the Vendor's responsibility to determine whether the Vendor is required to obtain a Certificate of Authority to Transact Business in Illinois, and if so to obtain that Certificate via the filing of the required form and payment of any required fees and taxes.

7.3.3 VENDOR SUSPENSION: Any Vendor may be suspended for violation of the Code or for failure to conform to specifications or terms of delivery. Suspension will be for cause and may be for a period of up to the maximum provided by law at the discretion of the applicable chief procurement officer. Vendors may be debarred in accordance with the Code and the rules promulgated by the chief procurement officer or as otherwise provided by law (30 ILCS 500/50-65).

7.4 NOTICES AND REQUIREMENTS FOR THE REVIEW AND EVALUATION OF OFFERS:

7.4.1 INFORMATION FROM OTHER SOURCES: The Agency/Buyer reserves the right to obtain and consider information from other sources concerning a Vendor, such as the Vendor's capability and performance under other contracts.

7.4.2 CRIMINAL HISTORY AND BACKGROUND INVESTIGATION: The Agency/Buyer reserves the right to conduct criminal history and other background investigation of the Vendor, its officers, directors, shareholders, or partners and managerial and supervisory personnel retained by the Vendor for the performance of the contract.

7.4.3 OFFER CLARIFICATION PROCESS: The Agency/Buyer reserves the right to contact a Vendor after the submission of an Offer for the purpose of clarifying an Offer to ensure mutual understanding. This contact may include written questions, interviews, site visits, a review of past performance if the Vendor has provided goods or services to the Agency/Buyer or any other political subdivision wherever located, or requests for corrective pages in the Vendor's Offer. The Agency/Buyer will not consider information received if the information materially alters the content of the Offer or alters the type of goods and services the Vendor is offering to the Agency/Buyer. An individual authorized to legally bind the Vendor must sign responses to any request for clarification. Responses must be submitted to the Agency/Buyer within the time specified in the request. Failure to comply with requests for additional information may result in rejection of the Offer as noncompliant.

7.4.4 DISPOSITION OF OFFERS: Ordinarily, all Offers become the property of the Agency/Buyer and will not be returned to the Vendor. Those Offers will be in the public domain and will be open to inspection by interested parties, subject to exceptions provided in the IFOIA, the Code, or other applicable law.

7.4.5. COPYRIGHTS: By submitting an Offer, the Vendor agrees that the Agency/Buyer may copy the Offer for purposes of facilitating the evaluation of the Offer or to respond to requests for public records. The Vendor consents to such copying by submitting an Offer and warrants that such copying will not violate the rights of any third party. The Agency/Buyer will have the right to use ideas or adaptations of ideas that are presented in the Offers.

7.4.6. RELEASE OF CLAIMS: By submitting an Offer, the Vendor agrees that it will not bring any claim or cause of action against the Agency/Buyer based on any misunderstanding concerning the information provided herein or concerning the Agency/Buyer's failure, negligent or otherwise, to provide the Vendor with pertinent information as intended by this RFP.

7.5 NOTICES AND REQUIREMENTS FOR AWARD AND PROTESTS:

7.5.1 NOTICE OF AWARD: The Agency/Buyer will publish Notice of Award in the electronic Illinois Procurement Bulletin (Supplies and Services Edition). Notice of Award information may not be available in any other form or location. The Vendor may register to view and download procurement information at <http://www.purchase.state.il.us/>.

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7.5.2 PROTESTS: If you object to any provision of the RFP, believe we improperly rejected your offer, or believe the selected Offer is not in the State's best interests, you may submit a written protest. We must actually receive the protest within 7 calendar days after you know or should have known of the facts giving rise to the protest. You will be deemed to have notice as of the date of publication in the Illinois Procurement Bulletin, unless you had earlier actual notice. You must submit your protest to the Protest Review Office listed in Section 3 of the RFP, "Key Information about this RFP" or if there is no such designation, to the RFP contact listed in Section 3.2 of the RFP. The State will consider only written protests that are properly and timely submitted. The State will issue a written decision and that decision is final.

7.6 NOTICES AND REQUIREMENTS FOR CONTRACTS RESULTING FROM THE RFP:

7.6.1 CONTRACT NEGOTIATIONS: Vendors must be prepared for the Agency/Buyer to accept the Offer as submitted, but contract negotiations may be necessary or desirable, at the State's sole option. If negotiations do not result in an acceptable agreement, the Agency/Buyer may reject the Offer or revoke the award and may begin negotiations with another vendor. Final contract terms must be approved or signed by the appropriately authorized State official(s).

7.6.2 COMMENCEMENT OF WORK: If you begin any billable work prior to the State's final approval and execution of the contract, you do so at your own risk.

7.6.3 DEFINITION OF CONTRACT: The Contract for Services included with this RFP, along with any amendments or addenda, will constitute the written Contract between the successful Vendor and the Agency/Buyer. The full execution of this written Contract will constitute the making of a Contract for Services and no Vendor will acquire any legal or equitable rights relative to the contract services until the Contract has been fully executed by the successful Vendor and the Agency/Buyer.

7.6.4 CHOICE OF LAW AND FORUM: This RFP and the resulting contract are to be governed by the laws of the State of Illinois. Changes in applicable laws and rules may affect the award process or the resulting contract. Vendors are responsible for ascertaining pertinent legal requirements and restrictions. Any and all litigation or actions commenced in connection with this RFP will be brought in the appropriate Illinois forum.

7.6.5 NO MINIMUM GUARANTEED: The Agency/Buyer anticipates that the selected Vendor will provide services as requested by the Agency/Buyer. The Agency/Buyer will not guarantee any minimum compensation will be paid to the Vendor or any minimum usage of the Vendor's services.

END OF REQUEST FOR PROPOSAL

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ICC Attachment 1 CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (this "Agreement"), is entered into and made effective as of the ____ day of _____, 2006 ("Effective Date"), by and among The Peoples Gas Light and Coke Company ("Peoples Gas") and North Shore Gas Company ("North Shore") (together "Peoples"), each a corporation organized and existing under the laws of the State of Illinois and _____ ("Vendor"), a _____ organized and existing under the laws of the State of _____ (each a "Party" and collectively the "Parties"), under the following circumstances:

WHEREAS, Vendor, pursuant to a Request for Proposal, issued by the State of Illinois, shall be providing services to the Illinois Commerce Commission related to a management audit of the gas purchasing practices, gas storage operations and storage activities of Peoples Gas and North Shore, pursuant to an order issued by the Illinois Commerce Commission in Docket No. 06-0556 ("Management Audit"). During the course of this Management Audit, it is anticipated that either or both of Peoples Gas and North Shore will provide Vendor information that Peoples Gas and North Shore deem confidential and proprietary.

WHEREAS, to facilitate the provision of information, the Parties wish to enter into this Agreement to govern the treatment of confidential and proprietary information.

NOW, THEREFORE, in consideration of the mutual promises and covenants made in this Agreement, and with the intent to be legally bound hereby, the Parties agree as follows:

1. Definitions.

- a. "Affiliated Interest" shall have the meaning ascribed to it in Section 7-101 of the Public Utilities Act, 220 ILCS 5/7-101.
- b. "Confidential Information" as used in this Agreement shall mean all information designated by the Party furnishing the information (the "Disclosing Party"), whether furnished in written, oral, electronic or any other format, to the other Party (the "Receiving Party") prior to, on or after Effective Date, including (i) all information related to Disclosing Party's transmission, storage and distribution facilities, gas supply procurement practices, including modeling systems, and planning data and information provided by Disclosing Party's Affiliated Interests, and (ii) all notes, extracts, analysis, compilations, memoranda or other information directly or indirectly derived from use of the Confidential Information. Notwithstanding the foregoing, "Confidential Information" shall not include (i) information that, at the time of disclosure by Disclosing Party, is or becomes publicly available other than as a result of a disclosure by an act or omission of Receiving Party or its Representatives in violation of this Agreement; and (ii) information that is obtained by Receiving Party on a non-confidential basis from a source, other than from the Disclosing Party, that is not prohibited from disclosing such information pursuant to a legal, contractual or fiduciary obligation to Disclosing Party.

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- c. "Representatives" means a Party's and, if applicable, its parent company's officers, employees, agents, attorneys or consultants.
- d. "Person" means individual, corporation, limited liability company, partnership, trust or other entity.

2. Disclosure and Use of Confidential Information. Receiving Party (a) shall keep all Confidential Information strictly confidential and shall not, without the Disclosing Party's prior written consent, disclose any Confidential Information in any manner whatsoever, directly or indirectly, and (b) shall not use any Confidential Information in any manner or for any purpose whatsoever, other than for the Management Audit; provided, however, that Receiving Party may reveal Confidential Information to those of its Representatives who have a clear need to know the Confidential Information in connection with the Management Audit and who are informed of the confidential nature of the Confidential Information and agree to be bound by the terms of this Agreement; provided, further, that Receiving Party may reveal Confidential Information to the Illinois Commerce Commission and its Staff pursuant to Sections 4-404 and 5-108 of the Public Utilities Act (220 ILCS 5/4-404 and 5-108), and as provided in the State of Illinois Contract for Services. Receiving Party agrees to be responsible for any disclosure in violation of this Agreement committed by any of its Representatives. Receiving Party acknowledges that it is aware, and agrees to advise its and its Representatives who are informed of the matters that are the subject of this Agreement, of the restrictions imposed by the United States securities laws on the purchase or sale of securities by any Person who has received material, non-public information directly or indirectly from the issuer of such securities, that may include certain portions of the Confidential Information, and on the communication of such information to any other Person.

3. Required Disclosure. In the event that Receiving Party or its Representatives are required, in the written opinion of its legal counsel, to disclose any of the Confidential Information by applicable law, regulation or legal process or in conformance with the State of Illinois Contract for Services, except that which is allowed in paragraph 2, herein, Receiving Party shall notify Disclosing Party promptly so that it may seek to enter into an appropriate protective agreement or seek a protective order or other appropriate remedy or, in its sole discretion, waive compliance with the terms of this Agreement. Receiving Party shall cooperate fully with Disclosing Party to obtain such a protective agreement or protective order and, in any event, shall exercise all reasonable efforts to obtain reliable assurance that confidential treatment shall be accorded any Confidential Information that is ultimately required to be disclosed.

4. Return of Documents. At the conclusion of the Management Audit and in conformance with the State of Illinois Contract for Services, including Illinois Commerce Commission proceedings related to the Management Audit, the Receiving Party shall either (a) promptly destroy all copies of the Confidential Information in its or its Representatives' possession and confirm such destruction to Disclosing Party by delivery of a certificate signed by a duly authorized officer of Receiving Party, or (b) promptly deliver to Disclosing Party at its expense all copies of the Confidential Information in its or Representatives' possession. Nothing in this Agreement shall preclude Vendor from preparing and issuing public versions of documents that have the Confidential Information redacted.

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5. Remedies. Receiving Party acknowledges that remedies at law would be inadequate to protect Disclosing Party against any actual or threatened breach of this agreement by Receiving Party or by its Representatives, and, without limiting any other rights and remedies otherwise available to Disclosing Party, Receiving Party agrees to the granting of injunctive relief in favor of Disclosing Party without the posting of bond or proof of actual damages. Receiving Party agrees to reimburse Disclosing Party's costs of enforcing this Agreement, including, without limitation, any reasonable legal fees and court costs.
6. No Representations or Further Obligation. Disclosing Party does not make any representations or warranties as to the accuracy, completeness or fitness for a particular purpose of the Confidential Information. It is further understood and agreed that neither Disclosing Party nor its Representatives shall have any liability or responsibility to Receiving Party or to any other Person or entity resulting from the use of any Confidential Information. Neither this Agreement nor the transfer of Confidential Information hereunder shall be construed as granting any license or rights to any information or data now or hereafter owned or controlled by Disclosing Party and all such Confidential Information shall remain the property of Disclosing Party.
7. Survival of Obligations. Receiving Party's obligations and commitments established by this Agreement shall remain in full force and effect for three (3) years from the date of final payment under the State of Illinois Contract for Services or after all litigation, if any, related to the Management Audit is completed, whichever event occurs later.
8. Miscellaneous. If any provision of this Agreement is declared void, or otherwise unenforceable, such provision shall be deemed to have been severed from this Agreement, that shall otherwise remain in full force and effect. Each Party agrees that no failure or delay by the other Party in exercising any right, power or privilege shall operate as a waiver thereof, nor shall any single or partial exercise preclude any other or further exercise or the exercise of any right, power or privilege under this Agreement. No waiver shall be effective against any Party unless such waiver is in writing and signed by such Party. This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois without regard to principles of conflicts of law. ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR IN ANY WAY RELATED TO THIS AGREEMENT SHALL BE BROUGHT IN THE STATE OR FEDERAL COURTS SITTING IN CHICAGO, ILLINOIS. This Agreement contains the entire agreement between the Parties concerning the confidentiality of the Confidential Information, and no modification of this Agreement shall be binding unless approved in writing by each of the Parties, and no course of dealing or course of performance between the Parties shall be construed to alter the terms of this Agreement, except as stated in this Agreement. The Parties agree that there is no third party beneficiary of this Agreement and that the provisions of this Agreement do not impart enforceable rights to anyone who is not a Party.
9. Notices. All notices, demands and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to be made or given when personally delivered or two business days after being mailed by registered or certified United States mail, postage prepaid, return receipt requested, or one business day after being sent by a courier guaranteeing overnight delivery, to the Parties at the following respective addresses, or

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at such other address as a respective Party may designate from time to time pursuant to a notice duly given hereunder to the other Party: if to Disclosing Party – The Peoples Gas Light and Coke Company, Attn: Katherine A. Donofrio, 130 East Randolph Drive, 22nd Floor, Chicago, Illinois, 60601; if to Receiving Party –

_____.

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement on the date and year first written above.

The Peoples Gas Light and Coke Company
North Shore Gas Company

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

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SAMPLE CONTRACT FOR SERVICES

The following pages, including any attachments or amendments, will constitute the binding and enforceable contract between the Agency/Buyer and the Vendor based upon the submission of the bid and any subsequent negotiations. The Contract is arranged as follows:

1. **AGENCY/BUYER AND VENDOR CONTACT PAGE:** This section provides for the Agency/Buyer and Vendor to specify contact people for the Contract.
2. **SERVICES VENDOR AGREES TO PERFORM:** The Agency/Buyer requests from the Vendor, in this section, a detailed description of how the Vendor will meet the contractual requirements and Agency/Buyer needs.
3. **PRICE:** This section will detail pricing/compensation requirements with at least the following categories of information: (1) Method and Rate of Compensation, (2) Maximum Compensation for Supplies and/or Services, (3) Expenses, (4) Payment Terms and Conditions, (5) Discounts, (6) Tax Exemption.
4. **TERMS AND CONDITIONS:** This section contains the State's terms and conditions for this Contract.
5. **AGENCY/BUYER SUPPLEMENTAL TERMS AND CONDITIONS:** This section indicates whether or not any supplemental terms and conditions are attached and applicable to this Contract.
6. **STATE FORMS REQUIRED OF THE VENDOR:** This section includes all State Forms that are required to be included in the Contract.
7. **SIGNATURE PAGE: CONTRACT FOR SERVICES:** This section provides for the Agency/Buyer and Vendor to sign and execute the Contract.

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1. AGENCY/BUYER AND VENDOR CONTACT PAGE

	VENDOR		AGENCY/BUYER
Name:	_____	Name:	<u>Bill Voss</u>
Title:	_____	Title:	<u>Project Manager</u>
Date:	_____	Date:	_____
Address:	_____	Address:	<u>527 East Capitol Avenue</u>
	_____		<u>Springfield, IL 62701</u>

Phone:	_____	Phone:	<u>217-782-2061</u>
TDD:	_____	TDD:	<u>217-782-7434</u>
Fax:	_____	Fax:	<u>217-785-5431</u>
E-mail:	_____	E-mail:	<u>bvoss@icc.illinois.gov</u>

(fill out below fields if additional contact information is necessary)

Name:	_____	Name:	_____
Title:	_____	Title:	_____
Date:	_____	Date:	_____
Address:	_____	Address:	_____
	_____		_____
	_____		_____
Phone:	_____	Phone:	_____
TDD:	_____	TDD:	_____
Fax:	_____	Fax:	_____
E-mail:	_____	E-mail:	_____

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2. SERVICES VENDOR AGREES TO PERFORM

This section serves as a placeholder for the Statement of Work that will be prepared by the successful Vendor and the State upon selection of the winning Vendor. This section will serve as the single location in the Contract that indicates what the Vendor has contractually agreed to provide to the State. This also includes the contract term and any renewal options available. **No response is required from the Vendor for this section of the Sample Contract.**

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3. PRICE

This section serves as a placeholder for the pricing information that will be included as part of the executed Contract. **No response is required from the Vendor for this section of the Sample Contract.**

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4. TERMS AND CONDITIONS

This section contains the State's standard terms and conditions for all contracts. These terms and conditions will govern this contractual relationship and the Vendor is bound by them and is responsible for reading and understanding them. The State reserves the right to amend these terms and conditions when and where needed and to supplement them with any appropriate addendum, as noted herein.

4.1 BILLING AND PAYMENT

4.1.1 BILLING: The Agency/Buyer's billing practices are set out as follows and Vendor is presumed to have read and understands the following procedures:

- 4.1.1.1 Vendor shall submit invoices to the address, on the schedule and with the detail required by the ordering Agency/Buyer. Invoices for services performed prior to July 1st must be presented to the Agency/Buyer no later than July 31; otherwise Vendor may have to seek payment of such invoices through the Illinois Court of Claims (**30 ILCS 105/25**). Billings shall be made to conform to State fiscal year requirements, including prorating if necessary, notwithstanding any contrary provision in this Contract or order.
- 4.1.1.2 Vendor shall not bill for any taxes unless a statement is attached to the bill identifying the tax and showing why it is legally chargeable to the State. The State does not warrant the interest component of any payment, including installment payments, are exempt from income tax liability.
- 4.1.1.3 By submitting an invoice Vendor certifies that the services provided meet all requirements of the Contract, and the amount billed is as allowed in the Contract.

4.1.2 PAYMENT:

- 4.1.2.1 Late payment charges, if any, shall not exceed the formula established in the State "Prompt Payment" Act (**30 ILCS 540/1**) and rules (**74 Ill. Adm. Code 900**). Payments delayed at the beginning of the State's fiscal year (July and August payments) because of the appropriation process shall not be considered a breach.
- 4.1.2.2 The Agency/Buyer shall not be liable to pay for any services rendered subject to this Contract incurred prior to the beginning of the term of this Contract. Any Contract or order labeled "subject to financing" or words to similar effect is subject to the Agency/Buyer obtaining suitable financing.
- 4.1.2.3 The approved invoice amount will be paid less any retainage and previous partial payments. Final payment shall be made upon determination by the Agency/Buyer that all requirements under this Contract have been completed; such determination shall not be unreasonably withheld. The final payment will be made subject to

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adjustment after completion of an audit of vendor's records as provided for in this Contract.

4.1.2.4 Any contract or order requiring payment of financing interest is subject to the interest rate limitation set by law of the greater of 9% or 125% of the G.O. Bond Index **(30 ILCS 305/1)**.

4.1.2.5 As a condition of payment, Vendor must pay its employees prevailing wages when required by law (e.g., public works, printing, janitorial, window washing, building and grounds services, site technician services, natural resources services, security guard and food service), and must pay its suppliers and subcontractors providing lien waivers on request **(30 ILCS 500/25-60(b))**. Any stipulation made by Vendor to pay prevailing wages shall be deemed to be incorporated in the project specifications as if specifically set forth therein **(820 ILCS 130/4(a))**.

4.1.3 DELAY OF PAYMENT DUE TO VENDOR FAILURE: If the Agency/Buyer in good faith determines that the Vendor has failed to perform or deliver any service or product as required by this Contract, the Vendor shall not be entitled to any compensation under this Contract until such service or product is performed or delivered. In this event, the Agency/Buyer may withhold that portion of the Vendor's compensation, which represents payment for service or product that was not performed or delivered.

4.1.4 SET-OFF AGAINST SUMS OWED TO THE VENDOR: The State may set off any sum owed to the Vendor on account of any debt owed to the State, unless otherwise required by law, in accordance with the State Comptroller Act **(15 ILCS 405)**. The Vendor agrees that this provision constitutes proper and timely notice under the law of setoff.

4.1.5 AVAILABILITY OF APPROPRIATIONS (30 ILCS 500/20-60): Agency/Buyer shall use its best efforts to secure sufficient appropriations to fund this Contract. However, the Agency/Buyer's obligations hereunder shall cease immediately, without penalty or further payment being required, if: (a) the Illinois General Assembly or the federal funding source fails to make an appropriation sufficient to pay such obligation; (b) adequate funds are not appropriated or granted the Agency/Buyer by the Illinois General Assembly or the federal funding source, to allow the Agency/Buyer to operate as required and to fulfill its obligations under the Contract; or (c) funds appropriated are de-appropriated or not allocated, or if funds needed by the Agency/Buyer, at the Agency/Buyer's sole discretion, are insufficient for any reason. Agency/Buyer shall give Vendor notice of insufficient funding as soon as practicable. Vendor's obligation to perform shall cease upon receipt of the notice.

4.2 VENDOR PERFORMANCE AND RESPONSIBILITIES

4.2.1 CONSULTATION: Vendor shall keep the Agency/Buyer fully informed as to the progress of matters covered by this Contract. Where time permits and Vendor is not otherwise prohibited from so doing, Vendor shall offer the Agency/Buyer the opportunity to review relevant documents prior to filing with any public body or adversarial party.

4.2.2 PERFORMANCE REVIEWS:

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4.2.2.1 The State or Agency/Buyer may conduct a post performance review of the Vendor's performance under the Contract. The Vendor shall cooperate with the State or Agency/Buyer in this review, which may require that the Vendor provide records of its performance and billing. Vendor shall provide any required information within 30 days of the Agency/Buyer's request. This post performance review may be used by any State agency in determining whether to enter into other contractual relationships with the Vendor.

4.2.2.2 Vendor shall have and maintain, during the term of this contract, internal procedures and processes to monitor performance to ensure full compliance with the contract. Vendor shall disclose such procedures and processes to the State upon request.

4.2.2.3 At the direction of the State, Vendor and State shall work together to develop a performance scorecard to record relevant facts related to performance as well as establishing conditions, milestones, requirements or timetables that must be met before additional steps may be taken or payment is due.

4.2.3 AUDIT/RETENTION OF RECORDS (30 ILCS 500/20-65): Vendor and its subcontractors shall maintain books and records relating to performance of the Contract or subcontract and necessary to support amounts charged to the State under the Contract or subcontract. Books and records, including information stored in databases or other computer systems, shall be maintained by the Vendor for a period of 3 years from the later of the date of final payment under the Contract or completion of the Contract, and by the subcontractor for a period of 3 years from the later of the date of final payment under the subcontract or completion of the subcontract. The 3-year period shall be extended for the duration of any audit in progress during the term. Books and records required to be maintained under this section shall be available for review or audit by representatives of the Auditor General, the Agency/Buyer, the Inspector General and other governmental entities with monitoring authority, upon reasonable notice and during normal business hours. Vendor and its subcontractors shall cooperate fully with any such audit. Failure to maintain books and records required by this section shall establish a presumption in favor of the State for the recovery of any funds paid by the State under the Contract for which adequate books and records are not available to support the purported disbursement. The Vendor shall not impose a charge for audit or examination of the Vendor's books and records. If federal funds are used to pay contract costs, the Vendor must retain its records for five years. If only state funds are involved, three years is sufficient.

4.2.4 SCHEDULE OF WORK: Any work performed on State premises shall be done during the hours designated by the State and shall in any event be performed so as to minimize inconvenience to the State and its personnel and minimize interference with the State's operations.

4.2.5 RESPONSIBILITY FOR AGENTS AND EMPLOYEES: Vendor shall be responsible for the negligent acts and omissions of its agents, employees and subcontractors in their performance of Vendor's duties under this Contract. Vendor represents that it shall utilize the services of individuals skilled in the profession for which they will be used in performing services hereunder. In the event that the Agency/Buyer determines that any individual performing

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services for Vendor hereunder is not providing such skilled services, it shall promptly so notify Vendor and Vendor shall replace that individual.

4.2.6 ASSIGNMENT AND DELEGATION:

4.2.6.1 This Contract may not be assigned, transferred or conveyed in whole or in part by the Vendor without the prior written consent of the State. For the purpose of construing this clause, a transfer of a controlling interest in the Vendor shall be considered an assignment.

4.2.6.2 After notice, the Agency/Buyer may transfer the Contract or payment responsibility to another State Agency, or assign the Contract to a third-party for financing purposes.

4.2.7 USE OF THIRD PARTIES:

4.2.7.1 The Agency/Buyer acknowledges that the Vendor may contract with third parties for the performance of any of the Vendor's obligations under this Contract. However, all subcontracts shall be subject to prior approval by the Agency/Buyer, so the Vendor must obtain the Agency/Buyer's prior written consent before allowing any Third Party to perform any of the Vendor's obligations under this Contract.

4.2.7.2 A Vendor who obtains the Agency/Buyer's prior written consent and subsequently enters into a contract with a Third Party for performance of any of the Vendor's obligations under this Contract remains responsible for all services performed under this Contract. All restrictions, obligations and responsibilities of the Vendor under this Contract shall also apply fully and completely to subcontractors. This includes requiring all subcontractors to submit certifications and disclosures to Agency/Buyer for review and approval upon request. The Agency/Buyer shall have the right to request the removal of a subcontractor from the Contract for good cause.

4.2.7.3 Vendor shall identify in the Contract, the names and addresses of all subcontractors utilized by Vendor in the performance of this Contract, together with the anticipated amount of money that each subcontractor is expected to receive pursuant to this Contract. The State may request updated information at any time. For purposes of this section, subcontractors are those specifically hired to perform all or part of the work of this contract.

4.2.7.4 If Vendor is unable to secure or maintain key personnel named in the Contract to render the services, Vendor shall not be relieved of its obligations to complete performance. Agency/Buyer shall have the option to accept a substitute or to terminate the Contract.

4.2.8 LICENSE: Vendor, directly or through its employees, shall have and maintain any required license. With written consent of the Agency/Buyer, Vendor may meet the license requirement through a subcontractor.

4.2.9 SOLICITATION AND EMPLOYMENT: Vendor shall not employ any person employed by the Agency/Buyer during the term of this Contract to

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perform any work required by the terms of this Contract. As a condition of this Contract, the Vendor shall give notice immediately to the Agency/Buyer's director if Vendor solicits or intends to solicit for employment any of the Agency/Buyer's employees during the term of this Contract. Agency/Buyer has no authority to contractually refuse to hire Vendor's employees who apply to the State for employment.

- 4.2.10 FORCE MAJEURE:** Failure by either party to perform its duties and obligations will be excused by unforeseeable circumstances beyond its reasonable control, including acts of nature, acts of the public enemy, riots, labor or material shortages, labor disputes, fire, flood, explosion, legislation, and governmental regulation.
- 4.2.11 TAX COMPLIANCE:** Vendor shall be in compliance with applicable tax requirements and shall be current in payment of such taxes.
- 4.2.12 COMPLIANCE WITH THE LAW:** The Vendor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders when performing the services under this Contract, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as subcontractors or suppliers. The Contractor, its employees, agents and subcontractors shall also comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under this Contract.
- 4.2.13 ANTITRUST ASSIGNMENT:** Vendor hereby assigns, sells and transfers to the State of Illinois all right, title and interest in and to any claims and causes of action arising under antitrust laws of Illinois or the United States relating to the subject matter of the Contract.

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4.3 CONFIDENTIALITY AND WORK PRODUCT

4.3.1 Confidentiality: Vendor's employees, agents, and subcontractors may have access to confidential data maintained by the Agency/Buyer or by Peoples Gas, North Shore, or their affiliates to the extent necessary to carry out its responsibilities under the Contract. As such, the following applies unless agreed to otherwise in writing:

4.3.1.1 Vendor shall presume that all information received pursuant to this Contract is confidential unless otherwise designated by the Agency/Buyer.

4.3.1.2 Vendor shall provide to the Agency/Buyer a written description of its policies and procedures to safeguard confidential information. Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats.

4.3.1.3 Vendor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Vendor in connection with the performance of the Contract.

4.3.1.4 Vendor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of this Contract;

4.3.1.5 The private or confidential data shall, at all times, remain the property of the Agency/Buyer or the property Peoples Gas, North Shore, or their affiliates from whomsoever the private or confidential data was obtained. Confidential documents obtained by the Vendor from the Utilities or their affiliates shall remain the property of the Utilities or their affiliates. The Vendor shall destroy or return any confidential documents obtained from the Utilities or their affiliates three years from the date of final payment under the Contract or after all litigation, if any, related to this project is completed, whichever event occurs later.

4.3.1.6 The Vendor and all persons who perform work under this contract will function as an extension of the Agency Staff for purposes of Sections 5-108 and 10-107 of the PUA [220 ILCS 5/5-108 and 10-107].

4.3.1.7 In the event the Vendor receives a request for confidential information, the Vendor shall give the Agency/Buyer written notice of the request. The Agency Project Manager shall provide notice of the request to the Utilities.

4.3.1.8 Vendor shall enter into a standard confidentiality agreement with the Utilities.

4.3.2 CONFIDENTIAL INFORMATION MAY NOT BE DISSEMINATED: No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of the Agency/Buyer, either during the period of the Contract or thereafter. Any data supplied to or created by the Vendor shall be considered the property of the Agency/Buyer. The Vendor must return any and all data collected, maintained, created or

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used in the course of the performance of the Contract in whatever form it is maintained promptly at the request of the Agency/Buyer.

4.3.3 SUBPOENA: In the event that a subpoena or other legal process is served upon the Vendor for records containing confidential information, the Vendor shall promptly notify the Agency/Buyer and cooperate with the Agency/Buyer in any lawful effort to protect the confidential information. The Agency Project Manager shall provide notice of the request to the Utilities.

4.3.4 REPORTING UNAUTHORIZED DISCLOSURES: The Vendor shall immediately report to the Agency/Buyer any unauthorized disclosure of confidential information.

4.3.5 USE OF WORK PRODUCT: Unless otherwise agreed in writing, the following applies regarding work product created or produced under this Contract:

4.3.5.1 Work product produced under this Contract, including, but not limited to, documents, reports, information, documentation of any sort and ideas, whether preliminary or final, shall become and remain the property of the State and/or Agency/Buyer, including any patent, copyright or other intellectual property rights; after the conclusion of this Contract, all original source documents and all work product produced under this Contract shall be provided to the Agency/Buyer upon demand;

4.3.5.2 With the exception of ideas, all such work products shall be considered works made for hire within the meaning of 17 U.S.C. § 101;

4.3.5.3 To the extent that any portion of such work product is not a work made for hire, Vendor completely and without reservation assigns to the Agency/Buyer all right, title and interest in and to such portion of the work product, as well as all related intellectual property rights, including patent and copyright;

4.3.5.4 Agency/Buyer shall exercise all rights of ownership in all such work product without restriction or limitation, without further compensation to Vendor.

4.3.5.5 Vendor shall not acquire or have any right to use, disclose or reproduce the work product or any equipment, documents, information, media, software, or know-how obtained from the State except to perform this Contract. Nothing herein shall be construed as precluding the use of any information independently acquired by Vendor without such limitation;

4.3.5.6 The ideas, methodologies, processes, inventions and tools (including computer hardware and software where applicable) that Vendor previously developed and brings to the Agency/Buyer in furtherance of performance of the Contract shall remain the property of the Vendor; and

4.3.5.7 Vendor grants to the Agency/Buyer a nonexclusive license to use and employ such software, ideas, concepts, methodologies, processes, inventions and tools solely within its enterprise.

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- 4.3.6 SURVIVES TERMINATION:** Vendor's obligations regarding Confidential Information and Work Product Usage under this Contract shall survive termination of this Contract.

4.4 INDEMNIFICATION AND LIABILITY

- 4.4.1 BY THE VENDOR:** The Vendor agrees to indemnify and hold harmless the State of Illinois and the Agency/Buyer, its officers, employees and agents (appointed and elected) and volunteers from any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments, including reasonable value of the time spent by the Attorney General's Office, and the costs and expenses and reasonable attorneys' fees of other counsel required to defend the State of Illinois or the Agency/Buyer, related to or arising from:
- 4.4.1.1 Any breach of this Contract;
 - 4.4.1.2 Any negligent, intentional or wrongful act or omission of the Vendor or any agent or subcontractor utilized or employed by the Vendor;
 - 4.4.1.3 The Vendor's performance or attempted performance of this Contract, including any agent or subcontractor utilized or employed by the Vendor;
 - 4.4.1.4 Any failure by the Vendor to fulfill the Compliance with the Law provision of this Contract;
 - 4.4.1.5 Any failure by the Vendor to make all reports, payments and withholdings required by federal and state law with respect to social security, employee income and other taxes, fees or costs required by the Vendor to conduct business in the State of Illinois;
 - 4.4.1.6 Any infringement of any copyright, trademark, patent, trade dress, or other intellectual property right; or
 - 4.4.1.7 Any failure by the Vendor to adhere to the confidentiality provisions of this Contract.
- 4.4.2 SURVIVES TERMINATION:** Indemnification obligation of the parties shall survive termination of this Contract.
- 4.4.3 LIABILITY:** Vendor agrees to assume, without limitation, all risk of loss and all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgments, including costs, attorneys' and witnesses' fees, and expenses incident thereto, relating to bodily injuries to persons (including death) and for loss of, damage to, or destruction of real and/or tangible personal property (including property of the State) resulting from the negligence or misconduct of Vendor, its employees, agents, or subcontractors in the performance of the Contract. Vendor shall assume risk of loss until delivery to the Agency/Buyer's facility. Vendor shall do nothing to prejudice the State's right to recover against third parties for any loss, destruction, or damage to State property, and shall at the State's request and expense, furnish to the State reasonable assistance and cooperation, including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the State in obtaining recovery. Neither party shall be liable for incidental, special or consequential damages.

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4.4.4 LEGISLATIVE CHANGES: The Vendor herein expressly acknowledges that the Contract and its subject matter are subject to legislative change by either the federal or state government. Should either legislative body enact measures which alter the terms or subject matter of this Contract, the Vendor shall not hold the Agency/Buyer liable in any manner for the resulting changes. The Agency/Buyer shall use best efforts to provide thirty (30) days' written notice to the Vendor of any legislative change. During the thirty (30)-day period, the parties shall meet and make a good faith effort to agree upon changes to the Contract to address the legislative change. Nothing in this Subsection shall affect or impair the Agency/Buyer's right to terminate the Contract pursuant to the termination provisions.

4.4.5 JOINT AND SEVERAL LIABILITY: If the Vendor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of this Contract, and for any default of activities and obligations.

4.5 WARRANTIES

4.5.1 CONSTRUCTION OF WARRANTIES EXPRESSED IN THE CONTRACT WITH WARRANTIES IMPLIED BY LAW: All warranties made by the Vendor in all provisions of this Contract and the Offer by the Vendor, whether or not this Contract specifically denominates the Vendor's promise as a warranty or whether the warranty is created only by the Vendor's affirmation or promise, or is created by a description of the materials and services to be provided, or by provision of samples to the Agency/Buyer, shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties which arise through course of dealing or usage of trade. The warranties expressed in this Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the goods and services provided by the Vendor. The provisions of this section apply during the term of this Contract and any extensions or renewals thereof.

4.5.2 CONCEPTS, MATERIALS AND WORKS PRODUCED: Vendor represents and warrants that all the concepts, materials and works produced, or provided to the Agency/Buyer pursuant to the terms of this Contract shall be wholly original with the Vendor or that the Vendor has secured all applicable interests, rights, licenses, permits or other intellectual property rights in such concepts, materials and works. The Vendor represents and warrants that the concepts, materials and works and the Agency/Buyer's use of same and the exercise by the Agency/Buyer of the rights granted by this Contract shall not infringe upon any other work, other than material provided by the Contract to the Vendor to be used as a basis for such materials, or violate the rights of publicity or privacy of, or constitute a libel or slander against, any person, firm or corporation and that the concepts, materials and works will not infringe upon the copyright, trademark, trade name, literary, dramatic, statutory, common law or any other rights of any person, firm or corporation or other entity. The Vendor represents and warrants that it is the owner of or otherwise has the right to use and distribute the software, the materials owned by the Vendor and any other materials, works and

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methodologies used in connection with providing the services contemplated by this Contract

- 4.5.3 TO BE PROVIDED IN A PROFESSIONAL MANNER:** Vendor warrants that all services will be performed in a good and professional manner and that all of the services to be performed hereunder will be rendered using sound, professional practices and in a competent and professional manner by knowledgeable, trained and qualified personnel.
- 4.5.4 CONFORMITY WITH CONTRACTUAL REQUIREMENTS:** The Vendor represents and warrants that the goods or services will appear and operate in conformance with the terms and conditions of this Contract.
- 4.5.5 AUTHORITY TO ENTER INTO CONTRACT:** The Vendor represents and warrants that it has full authority to enter into this Contract and that it has not granted and will not grant any right or interest to any person or entity that might derogate, encumber or interfere with the rights granted to the Agency/Buyer.
- 4.5.6 OBLIGATIONS OWED TO THIRD PARTIES:** The Vendor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Vendor pursuant to this Contract are or will be fully satisfied by the Vendor so that the Agency/Buyer will not have any obligations with respect thereto.
- 4.5.7 TITLE TO PROPERTY AND EQUIPMENT:** The Vendor represents and warrants that title to any property assigned, conveyed or licensed to the Agency/Buyer is good and that transfer of title or license to the Agency/Buyer is rightful and that all property shall be delivered free of any security interest or other lien or encumbrance. Vendor further warrants that it has title to, or the right to allow the State to use, the equipment, supplies and/or services being provided and that the State may use same without suit, trouble or hindrance from Vendor or third parties.
- 4.5.8 EQUIPMENT AND SUPPLIES QUALITY:** Unless otherwise agreed, Vendor warrants that all equipment and/or supplies shall be new, unused, of most current manufacture and not discontinued, shall be free of defects in materials and workmanship, shall be provided in accordance with manufacturer's standard warranty and shall perform in accordance with manufacturer's published specifications.
- 4.5.9 INDUSTRY STANDARDS:** The Vendor represents and expressly warrants that all aspects of the goods and services provided or used by it shall conform to the standards in the relevant industry in the performance of this Contract.
- 4.5.10 TECHNOLOGY UPDATES:** The Vendor represents warrants that it shall continually use and integrate the most current and up-to-date technology commercially available.
- 4.5.11 SOLICITATION:** The Vendor warrants that no person or selling Agency/Buyer has been employed or retained to solicit and secure this Contract upon an agreement or understanding for commission, percentage, brokerage or contingency excepting bona fide employees or selling agents maintained for the purpose of securing business.
- 4.5.12 Future Work for the Utilities or Their Affiliates:** The Vendor warrants that it will not solicit or perform work for the Utilities or their affiliates for a

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period of two years after the termination of the Contract without the expressed consent of the Commission.

4.6 INSURANCE

4.6.1 INSURANCE: Vendor shall acquire or maintain, at its expense, insurance that is appropriate in type and amount to cover its activities, including public liability, casualty, and auto insurance in sufficient amount to protect the State from liability for acts of Vendor and risks and indemnities assumed by Vendor. Vendor shall carry Comprehensive Auto Liability coverage with the following minimums: for bodily injury of \$250,000 per person/\$1,000,000 per occurrence, and for property damage, \$100,000 per occurrence. Vendor shall carry Worker's Compensation Insurance in amount required by law and shall carry Employer's Liability insurance in an amount of not less than \$500,000 per occurrence. The Vendor shall carry comprehensive General Liability insurances of not less than \$2,000,000 per occurrence; such insurance shall include Contractor's Protective Liability covering liability for work sublet and Contractual Liability insuring the indemnity provisions contained in this Contract. The Vendor shall carry Professional Liability Insurance with limits of not less than \$2,000,000 per occurrence. Upon request, Vendor shall provide and maintain any bond required by law or the Agency/Buyer. Vendor shall provide copies of certificates of insurance evidencing the coverage described in this paragraph. Vendor shall certify in its proposal that it has or will obtain the above listed insurance coverage in the amounts specified if it is awarded the Contract for this project and that it will name the Utilities as an additional insured on Comprehensive General Liability and the Comprehensive Automobile Liability policies and shall provide Utilities a Waiver of Subrogation under the Worker's Compensation Insurance and Employer's Liability Insurance.

4.7 VENDOR STATUS AND QUALIFICATIONS

4.7.1 BACKGROUND CHECK: The State may conduct criminal and driver history background checks of Vendor's officers, employees or agents who would directly supervise or physically perform any of the Contract requirements at State facilities. Any officer, employee or agent deemed unsuitable by the State must be replaced immediately.

4.7.2 LEGAL ABILITY TO CONTRACT: Vendor certifies it is under no legal prohibition on contracting with the State of Illinois, has no known conflicts of interest and further specifically certifies that:

4.7.2.1 Vendor, its employees and subcontractors will comply with applicable provisions of the U.S. Civil Rights Act, Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) and applicable rules in performance under this Contract.

4.7.2.2 Vendor is not in default on an educational loan (**5 ILCS 385/3**).

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- 4.7.2.3 Vendor has informed the director of the Agency/Buyer in writing if he/she was formerly employed by that agency and has received an early retirement incentive prior to 1993 under Section 14-108.3 or 16-133.3 of the Illinois Pension Code, **40 ILCS 5/14-108.3** and **40 ILCS 5/16-133.3**, and acknowledges that contracts made without the appropriate filing with the Auditor General are not payable from the “contractual services” or other appropriation line items. Vendor has not received an early retirement incentive in or after 2002 under Section 14-108.3 or 16-133.3 of the Illinois Pension Code, **40 ILCS 5/14-108.3** and **40 ILCS 5/16-133.3**, and acknowledges that contracts in violation of Section 15a of the State Finance Act are not payable from the “contractual services” or other appropriation line items **(30 ILCS 105/15a)**.
- 4.7.2.4 Vendor has not been convicted of bribing or attempting to bribe an officer or employee of the State of Illinois or any other State, nor has made an admission on the record of having so bribed or attempted to bribe **(30 ILCS 500/50-5)**.
- 4.7.2.5 If Vendor has been convicted of a felony, at least five years have passed after the date of completion of the sentence for such felony, unless no person held responsible by a prosecutor’s office for the facts upon which the conviction was based continues to have any involvement with the business **(30 ILCS 500/50-10)**.
- 4.7.2.6 If Vendor, or any officer, director, partner, or other managerial agent of Vendor, has been convicted of a felony under the Sarbanes-Oxley Act of 2002, or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953, at least 5 years have passed since the date of the conviction. Vendor further certifies that it is not barred from being awarded a contract and acknowledges that the contracting State Agency/Buyer shall declare the contract void if this certification is false **(30 ILCS 500/50-10.5)**.
- 4.7.2.7 Vendor and its affiliates are not delinquent in the payment of any debt to the State (or if delinquent has entered into a deferred payment plan to pay the debt), and Vendor and its affiliates acknowledge the contracting State Agency/Buyer may declare the contract void if this certification is false **(30 ILCS 500/50-11)** or if Vendor or an affiliate later becomes delinquent and has not entered into a deferred payment plan to pay off the debt **(30 ILCS 500/50-60)**.
- 4.7.2.8 Vendor and all affiliates shall collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with provisions of the Illinois Use Tax Act **(30 ILCS 500/50-12)** and acknowledge that failure to comply can result in the contract being declared void.
- 4.7.2.9 Vendor certifies that it has not committed a willful or knowing violation of the Environmental Protection Act (relating to Civil Penalties under the Environmental Protection Act) within the last five (5) years, and is therefore not barred from being awarded a contract. If the State later determines that this certification was falsely made by the Vendor, the Vendor acknowledges that the

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contracting State Agency/Buyer may declare the contract void.
(30 ILCS 500/50-14)

- 4.7.2.10 Vendor has not paid any money or valuable thing to induce any person to refrain from bidding on a State contract, nor has Vendor accepted any money or other valuable thing, or acted upon the promise of same, for not bidding on a State contract **(30 ILCS 500/50-25)**.
- 4.7.2.11 Vendor is not in violation of the "Revolving Door" section of the Illinois Procurement Code **(30 ILCS 500/50-30)**.
- 4.7.2.12 Vendor will report to the Illinois Attorney General and the Chief Procurement Officer any suspected collusion or other anti-competitive practice among any bidders, offerors, contractors, proposers or employees of the State **(30 ILCS 500/50-40, 50-45, 50-50)**.
- 4.7.2.13 Vendor will, pursuant to the Drug Free Workplace Act, provide a drug free workplace, and if an individual shall not engage in the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance in the performance of the Contract. This certification applies to contracts of \$5000 or more with: individuals; and to entities with twenty-five (25) or more employees **(30 ILCS 580)**.
- 4.7.2.14 Neither Vendor nor any substantially owned affiliate is participating or shall participate in an international boycott in violation of the U.S. Export Administration Act of 1979 or the applicable regulations of the U.S. Department of Commerce. This certification applies to contracts that exceed \$10,000 **(30 ILCS 582)**.
- 4.7.2.15 Vendor has not been convicted of the offense of bid rigging or bid rotating or any similar offense of any State or of the United States **(720 ILCS 5/33E-3, 5/33E-4)**.
- 4.7.2.16 Vendor complies with the Illinois Department of Human Rights Act and rules applicable to public contracts, including equal employment opportunity, refraining from unlawful discrimination, and having written sexual harassment policies **(775 ILCS 5/2-105)**.
- 4.7.2.17 Vendor does not pay dues to, or reimburse or subsidize payments by its employees for, any dues or fees to any "discriminatory club" **(775 ILCS 25/2)**.
- 4.7.2.18 Vendor complies with the State Prohibition of Goods from Forced Labor Act, and certifies that no foreign-made equipment, materials, or supplies furnished to the State under the contract have been or will be produced in whole or in part by forced labor, convict labor, or indentured labor under penal sanction **(30 ILCS 583)**.
- 4.7.2.19 Vendor certifies that no foreign-made equipment, materials, or supplies furnished to the State under the contract have been produced in whole or in part by the labor of any child under the age of 12 **(30 ILCS 584)**.

- 4.7.3 CONFLICTS OF INTEREST:** Vendor has disclosed, and agrees it is under a continuing obligation to disclose to the Agency/Buyer, financial or

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other interests (public or private, direct or indirect) that may be a potential conflict of interest or which would prohibit Vendor from having or continuing the Contract. This includes, but is not limited to conflicts under the "Infrastructure Task Force Fee Prohibition" section of the State Finance Act (**30 ILCS 105/18.40**), Article 50 of the Illinois Procurement Code (**30 ILCS 500/50**), or those which may conflict in any manner with the Vendor's obligation under this Contract. Vendor shall not employ any person with a conflict to perform under this Contract. If any conflict under Section 50-13 exists no contract may be issued without an exemption from the Governor pursuant to Section 50-20 of the Illinois Procurement Code. An exemption is necessary if:

- 4.7.3.1 the person intending to contract with the State, their spouse or child: (i) holds an elective office in Illinois; (ii) holds a seat in the Illinois General Assembly; (iii) is an officer or employee of the Capital Development Board or the Illinois Toll Highway Authority; or holds an appointed position or is employed in any of the offices or agencies of the State government and who receives compensation for such employment in excess of 60% of the salary of the Governor (**currently \$90,414.60**). (The conflict of interest threshold of 60% of the Governor's salary set forth in Section 50-13 does not apply to elective office holders, legislators, and officers or employees of the Capital Development Board or the Illinois Toll Highway Authority.);
- 4.7.3.2 the contract is with a firm, partnership, association or corporation in which a person referenced in 4.7.3.1 above receives more than 7.5% of the total distributable income or an amount in excess of the salary of the Governor (**currently \$150,691.00**).
- 4.7.3.3 the contract is with a firm, partnership, association or corporation in which a person referenced in 4.7.3.1 above, together with their spouse or minor child, receives more than 15% in the aggregate of the total distributable income or an amount in excess of 2 times the salary of the Governor (**currently \$301,382.00**) from the firm, partnership, association or corporation.

4.7.4 INDEPENDENT CONTRACTOR: The Vendor shall be an independent contractor. Equipment and/or supplies provided and/or services performed pursuant to this Contract are not rendered as an employee of the Agency/Buyer or of the State of Illinois. Amounts paid pursuant to this Contract do not constitute compensation paid to an employee.

4.7.5 NOT A JOINT VENTURE: Nothing in this Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. Each party shall be deemed to be an independent contractor contracting for services and acting toward the mutual benefits expected to be derived herefrom. No party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Contract.

4.7.6 NON-DISCRIMINATION: In compliance with the State and Federal Constitutions, the Illinois Human Rights Act, the U. S. Civil Rights Act, and

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Section 504 of the Federal Rehabilitation Act, the Agency/Buyer does not unlawfully discriminate in employment, contracts, or any other activity.

4.8 TERMINATION OF CONTRACT

4.8.1 TERMINATION FOR CAUSE WITHOUT ADVANCE NOTICE: The Agency/Buyer may terminate this Contract for any of the following reasons effective immediately without advance notice:

- 4.8.1.1 In the event the Vendor is required to be certified or licensed as a condition precedent to providing services, the revocation or loss of such license or certification will result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;
- 4.8.1.2 The Agency/Buyer determines that the actions, or failure to act, of the Vendor, its agents, employees or subcontractors have caused, or reasonably could cause jeopardy to health or safety;
- 4.8.1.3 The Vendor fails to comply with confidentiality laws or provisions;
- 4.8.1.4 The Vendor furnished any statement, representation or certification in connection with this Contract or the RFP which is materially false, deceptive, incorrect or incomplete.

4.8.2 TERMINATION FOR CAUSE WITH NOTICE: The occurrence of or any one or more of the following events shall constitute cause for the Agency/Buyer to declare the Vendor in default of its obligations under this Contract:

- 4.8.2.1 The Vendor fails to perform, to the Agency/Buyer's satisfaction, any material requirement of this Contract or is in violation of a material provision of this Contract, including, but without limitation, the express warranties made by the Vendor;
- 4.8.2.2 The Agency/Buyer determines that satisfactory performance of this Contract is substantially endangered or that a default is likely to occur;
- 4.8.2.3 The Vendor fails to make substantial and timely progress toward performance of the Contract;
- 4.8.2.4 The Vendor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Vendor terminates or suspends its business; or the Agency/Buyer reasonably believes that the Vendor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
- 4.8.2.5 The Vendor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of this Contract;
- 4.8.2.6 The Vendor has engaged in conduct that has or may expose the Agency/Buyer to liability, as determined in the Agency/Buyer's sole discretion; or

4.8.2.7 The Vendor has infringed any patent, trademark, copyright, tradedress or any other intellectual property right.

4.8.2.8 If there is a default event caused by the Vendor, the Agency/Buyer shall provide written notice to the Vendor requesting that the breach or noncompliance be remedied within the period of time specified in the Agency/Buyer's written notice to the Vendor. If the breach or noncompliance is not remedied by the date of the written notice, the Agency/Buyer may either: (a) immediately terminate the Contract without additional written notice; or, (b) enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

4.8.3 TERMINATION FOR CONVENIENCE UPON NOTICE: Following **fifteen (15)** days written notice, the Agency/Buyer may terminate this Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Vendor. Following termination upon notice, the Vendor shall be entitled to compensation, upon submission of invoices and proper proof of claim, for services provided under this Contract to the Agency/Buyer up to and including the date of termination.

4.8.4 TERMINATION DUE TO LACK OF FUNDS OR CHANGE IN LAW: The Agency/Buyer shall have the right to terminate this Contract without penalty by giving written notice to the Vendor as a result of any of the following:

4.8.4.1 Adequate funds are not appropriated or granted to allow the Agency/Buyer to operate as required and to fulfill its obligations under this Contract;

4.8.4.2 Funds are de-appropriated or not allocated or if funds needed by the Agency/Buyer, at the Agency/Buyer's sole discretion, are insufficient for any reason;

4.8.4.3 The Agency/Buyer's authorization to operate is withdrawn or there is a material alteration in the programs administered by the Agency/Buyer;

4.8.4.4 The Agency/Buyer's duties are substantially modified.

4.8.5 VENDOR'S REMEDIES IN EVENT OF TERMINATION BY AGENCY/BUYER: In the event of termination of this Contract for any reason by the Agency/Buyer, the Agency/Buyer shall pay only those amounts, if any, due and owing to the Vendor for services actually rendered up to and including the date of termination of the Contract and for which the Agency/Buyer is obligated to pay pursuant to this Contract. Payment will be made only upon submission of invoices and proper proof of the Vendor's claim. This provision in no way limits the remedies available to the Agency/Buyer under this Contract in the event of termination. However, the Agency/Buyer shall not be liable for any of the following costs:

4.8.5.1 The payment of unemployment compensation to the Vendor's employees;

4.8.5.2 The payment of workers' compensation claims, which occur during the Contract or extend beyond the date on which the Contract terminates;

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- 4.8.5.3 Any costs incurred by the Vendor in its performance of the Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract;
- 4.8.5.4 Any taxes that may be owed by the Vendor in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

4.8.6 VENDOR'S TERMINATION DUTIES: The Vendor, upon receipt of notice of termination or upon request of the Agency/Buyer, shall:

- 4.8.6.1 Cease work under this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within fifteen (15) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, any other matters the Agency/Buyer may require;
- 4.8.6.2 Immediately cease using and return to the Agency/Buyer any personal property or materials, whether tangible or intangible, provided by the Agency/Buyer to the Vendor;
- 4.8.6.3 Comply with the Agency/Buyer's instructions for the timely transfer of any active files and work product produced by the Vendor under this Contract;
- 4.8.6.4 Cooperate in good faith with the Agency/Buyer, its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor; and
- 4.8.6.5 Immediately return to the Agency/Buyer any payments made by the Agency/Buyer for services that were not rendered by the Vendor.

4.9 GENERAL PROVISIONS

- 4.9.1 **TERM AND RENEWALS:** The length of the Contract, including any renewals, may not exceed that allowed by law pursuant to **30 ILCS 500/20-60** or other applicable statutes. When the term begins on execution, that means the date of final execution by the State. If the commencement of performance is delayed because the Contract is not executed by the State on the start date, the State may change the start date, end date and milestones to reflect the delayed execution. No renewal may be effective automatically. No renewal may be effective solely at the Vendor's option.
- 4.9.2 **NON-EXCLUSIVE RIGHTS:** This Contract is not exclusive. The Agency/Buyer reserves the right to select other contractors to provide services similar or identical to the Scope of Services described in this Contract during the term of this Contract.
- 4.9.3 **APPLICABLE LAW:** The terms and conditions of this Contract, including those set forth in any attachment, shall be construed in accordance with and are subject to the laws and rules of the State of Illinois, including, without limitation, the Illinois Procurement Code (**30 ILCS 500**) and the rules promulgated thereunder (**44 Ill. Adm. Code 1**), the Illinois Freedom of Information Act (**5 ILCS 140**) and the Attorney General Act (**15 ILCS 205**).

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The Department of Human Rights' Equal Opportunity requirements (**44 Ill. Adm. Code 750**) are incorporated by reference. Any claim against the State arising out of this CONTRACT must be filed exclusively with the Illinois Court of Claims (**705 ILCS 505/1**). The State shall not enter into binding arbitration to resolve any Contract dispute. The State of Illinois does not waive sovereign immunity by entering into this Contract. Any provision containing a citation to an Illinois statute (cited ILCS) may not contain complete statutory language. The official text, which is incorporated by reference, can be found in the appropriate chapter and section of the Illinois Compiled Statutes. An unofficial version can be viewed at <http://www.ilga.gov/legislation/ilcs/ilcs.asp>

- 4.9.4 ENTIRE CONTRACT:** This Contract, including any attachments or amendments, constitutes the entire agreement between the Parties concerning the subject matter of the Contract. Modifications and waivers must be in writing and signed by authorized representatives of the Parties. Any provision of this Contract officially declared void, unenforceable, or against public policy, shall be ignored and the remaining provisions of this Contract shall be interpreted, as far as possible, to give effect to the Parties' intent. All provisions that by their nature would be expected to survive, shall survive termination of this Contract, including without limitation provisions relating to confidentiality, warranty, ownership and liability. This Contract represents the entire Contract between the parties. The parties shall not rely on any representation that may have been made which is not included in this Contract.
- 4.9.5 CONTRACTING AUTHORITY:** Certain contracts must be signed or approved by the Director of the Department of Central Management Services (CMS) before they are binding on the State. In those instances CMS shall not be responsible for costs or funding even though payments may be made through CMS facilities.
- 4.9.6 AMENDMENTS:** This Contract may be amended in writing from time to time by mutual consent of the parties. All amendments to this Contract must be in writing and fully executed by the parties.
- 4.9.7 THIRD PARTY BENEFICIARIES:** There are no third party beneficiaries to this Contract. This Contract is intended only to benefit the State, the Agency/Buyer and the Vendor.
- 4.9.8 HEADINGS OR CAPTIONS:** The paragraph headings or captions used in this Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.
- 4.9.9 SUPERSEDES FORMER CONTRACT AGREEMENTS:** This Contract supersedes all prior Contracts or Agreements between the Agency/Buyer and the Vendor for the services provided in connection with this Contract.
- 4.9.10 WAIVER:** Except as specifically provided for in a waiver signed by duly authorized representatives of the Agency/Buyer and the Vendor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

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- 4.9.11 NOTICE:** Any and all notices, designations, consents, offers, acceptances or any other communication provided for herein shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to each party as set forth in Section 1 of the Sample Contract for Services, "Agency/Buyer and Vendor Contact Page." Notices by fax must show the date/time of successful receipt. Each such notice shall be deemed to have been provided: (a) at the time it is actually received; or, (b) within one day in the case of overnight hand delivery, courier or services such as Federal Express with guaranteed next day delivery; or, (c) within five (5) days after it is deposited the U.S. Mail in the case of registered U.S. Mail. From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.
- 4.9.12 CUMULATIVE RIGHTS:** The various rights, powers, options, elections and remedies of any party provided in this Contract, shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.
- 4.9.13 SEVERABILITY:** If any provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Contract.
- 4.9.14 TIME IS OF THE ESSENCE:** Time is of the essence with respect to the performance of the terms of this Contract.
- 4.9.15 AUTHORIZATION:** Each party to this Contract represents and warrants to the other parties that: (a) it has the right, power and authority to enter into and perform its Obligations under this Contract; and (b) it has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of this Contract, and this Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.
- 4.9.16 SUCCESSORS IN INTEREST:** All the terms, provisions, and conditions of the Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.
- 4.9.17 OBLIGATIONS BEYOND CONTRACT TERM:** This Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to this Contract. All obligations of the Agency/Buyer and the Vendor incurred or existing under this Contract as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of this Contract.
- 4.9.18 COUNTERPARTS:** The parties agree that this Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

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- 4.9.19 FURTHER ASSURANCES AND CORRECTIVE INSTRUMENTS:** The parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Contract.
- 4.9.20 ADDITIONAL PROVISIONS:** The parties agree that if an Addendum, Rider or Exhibit is attached hereto by the parties, and referred to herein, then the same shall be deemed incorporated herein by reference.

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5. AGENCY/BUYER SUPPLEMENTAL TERMS AND CONDITIONS

[Agency/Buyer to fill in any Supplemental Terms and Conditions or Agency-specific definitions]

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6. STATE FORMS REQUIRED OF THE VENDOR

This section serves as a placeholder for any State Forms completed as part of the RFP process that also need to be included in the Contract (if necessary). It is important to note that this section references State forms that are necessary to be included in the Contract and may not include all of the forms listed in section 5.2.9 of the RFP, "State Forms Required of the Vendor." In addition, this section does not serve as an opportunity for Vendors to insert their own forms.

This contract incorporates by reference the State Forms submitted as part of the RFP process

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7. SIGNATURE PAGE: CONTRACT FOR SERVICES

This contract ("Contract") is made and entered into as of the _____ day of _____, 20____, by and between the State of Illinois, a body politic ("State") by and through its agency and/or buyer, the Illinois Commerce Commission ("Agency" "Buyer" or "Agency/Buyer") and _____ ("_____" or "Vendor").

WITNESSETH:

WHEREAS, on September 12, 2006, State issued a Request for Proposals ("RFP") inviting Offers to address Agency's need to conduct a focused management of Peoples Gas and North Shore Gas to examine their gas purchasing practices, gas storage operations, and gas storage activities; as well as the effect of their affiliates on those practices, operations and activities.

WHEREAS, as a result of Vendor's Offer and in reliance on the representations, assurances, and acknowledgements made therein, as well as the representations, assurances and acknowledgements made herein, State has determined to award Vendor this contract based upon its Offer and subject to the terms and conditions contained herein, for the provision of services to the State.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the foregoing and to the terms set forth herein.

In Witness whereof, Agency/Buyer and Vendor have caused this Contract to be executed by duly authorized representatives of the respective PARTIES on the dates shown below:

Vendor (Company Name and D/B/A):

Agency:

Illinois Commerce Commission

Signature

Signature

Tim Anderson

Printed Name

Printed Name

Title: _____ **Date:** _____

Title: Executive Director **Date:** _____

Signature **Date**
Title: State Purchasing Officer

Signature **Date**
Title: General Counsel